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**Cleveland Sinking Fund
of 1862**

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A History of the Cleveland Sinking Fund of 1862



U. S.
P.

BY
JOHN WILLIAM PERRIN, PH. D.
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TO
HERBERT, HARRIET, AND EVERETT

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COMMISSIONERS OF THE SINKING FUND OF 1862

Henry B. Payne	1862-1896
Franklin T. Backus	1862-1870
William Case	.	.	.	.	.	1862-April 19, 1862
Moses Kelley	.	.	.	.	.	1862-1870
William Bingham	.	.	.	.	.	1862-1904
Charles Hickox, successor to William Case	.	.	.	.	.	1862-1890
Leonard Case, successor to Franklin T. Backus	.	.	.	.	.	1870-1880
J. H. Wade, successor to Moses Kelley	.	.	.	.	.	1870-1890
Sylvester T. Everett, successor to Leonard Case	.	.	.	.	.	1880-1913
William Edwards, successor to Charles Hickox	.	.	.	.	.	1890-1898
James Barnett, successor to J. H. Wade	.	.	.	.	.	1890-1911
Andrew Squire, successor to Henry B. Payne	.	.	.	.	.	1896-1913
Samuel E. Williamson, successor to W. B. Edwards	.	.	.	.	.	1898-1903
Charles F. Brush, successor to S. E. Williamson	.	.	.	.	.	1903-1913
Charles W. Bingham, successor to William Bingham	.	.	.	.	.	1904-1913

PRESIDENTS OF THE COMMISSION

Henry B. Payne	.	.	.	.	.	1862-1896
William Bingham	.	.	.	.	.	1896-1904
James Barnett	.	.	.	.	.	1904-1911
Charles W. Bingham	.	.	.	.	.	1911-1913

SECRETARIES OF THE COMMISSION

D. H. Beardsley	.	.	.	.	.	1862-1869
H. C. Hawkins	.	.	.	.	.	1869-1909
E. W. Brink	.	.	.	.	.	1910-1913

I.

ACT OF THE GENERAL ASSEMBLY CREATING THE FUND.

The Sinking Fund of 1862 was created by an act of the General Assembly passed March 28 of that year.¹ This act set apart certain "railroad shares and bonds," and "any assets going out of the same," then owned by the city, and in the hands of commissioners, as the basis of a fund for the redemption of the principal of the Water Works bonded indebtedness.² This indebtedness, however, was to be paid in conformity with the provisions of Article Six of The Terms of Annexation between the City of Cleveland and the City of Ohio agreed upon by the commissioners, June 5, 1854.³ Article Six of the Terms of Annexation provided that "All railroad stocks now held by the City of Cleveland, and all rights growing out of the ownership thereof, and of such as have heretofore been owned by said City of Cleveland shall be and remain the exclusive property of that portion of the territory of such united city which now constitutes the City of Cleveland, the avails of which shall be applied to the extinguishment of the liabilities of said City of Cleveland, heretofore incurred by subscriptions to railroad stocks, and the issue of bonds or other liabilities of said City of Cleveland, in payment of such subscriptions. Should

¹ Ohio Laws (Columbus, 1862) pp. 126-128.

² As early as June 25, 1833, the General Assembly had passed an act incorporating "Philo Scovill and his associates" as the "Cleveland Water Co." The capital stock was to be twenty-five thousand dollars "to be divided into shares of fifty dollars each."—Report of the Committee appointed by the Common Council of the city of Cleveland on the Subject of a supply of Pure Water. (Cleveland: Plaindealer Steam Press, 1853). The committee making this report consisted of William Case, W. J. Warner, J. P. Kirtland and Charles Whittlesey. Their report was exhaustive. It is included in Vol. 1 of the Annual Reports of the Cleveland Water Works.

Nothing was done under the Act of 1833. On March 19, 1850, an act of amendment was passed by the General Assembly which increased the capital stock to one hundred thousand dollars, and made the provisions of the original act "apply to and embrace the corporate limits of the City of Cleveland, and County of Cuyahoga as fully and explicitly as the provisions of said act are declared in the same to apply to and embrace the corporate limits of the village of Cleveland, and County of Cuyahoga." (Ibid.)

In this same year, 1850, William Case became Mayor. His administration was both able and energetic; and under his leadership the corporation took hold of the matter. After much discussion, and when many surveys and estimates had been made, a plan was adopted in 1854. To carry this out, the General Assembly on May 1, of that year passed an act by which the city was given authority "to locate its reservoirs and make its connections with the lake within the City of Ohio." "The act also authorized the city to make a loan of \$100,000 to carry out the project." This loan, however, was conditioned "upon a vote of popular approval which was given."—Corporate Birth and Growth of Cleveland. By Hon. S. O. Griswold. Annals of the Early Settlers Association of Cuyahoga County, Vol. 1, Number V.

³ Section 1 of Act creating the fund.

a surplus remain, after the application of so much of the last named asset to the extinguishment of said named liabilities as shall be necessary for such purpose, such surplus shall be appropriated to the special benefit of said territory now composing the City of Cleveland, either by the purchase of public parks therein, or in such other manner as a majority of Trustees representing such territory shall direct. Should it ever be necessary to resort to other means to take care of said liabilities, the amount necessary for such purpose shall be raised by a tax upon the property embraced in such territory exclusively."

The custody and management of the fund was given to a board of five commissioners⁴ who "beyond the necessary expenses incurred by them in the discharge of their duties" were to receive "no salary or compensation for their services."⁵ As a guarantee for the faithful discharge of their duties, the commissioners were required to give bond approved by the Mayor, and in such amount as he might "from time to time determine."⁶

They were required to keep a register of all "stocks, shares, bonds, and moneys in a book prepared for that purpose, showing the dates, numbers, and amounts thereof, the corporation or corporations in which the same are invested, or from whom payable, the time payable, the annual or semi-annual interest or dividends accruing on the same, and when said interest or dividends are payable, and when the same is paid, and all such other matters and things as will fully show the true amount and condition of said fund."⁷ This register was to be open at all times for examination by the Mayor or City Auditor; and on the first Tuesday in April of each year, the commissioners were required to make "a full and accurate report of the condition and amount of said fund" to the City Council.⁸

The law also made it the duty of the commissioners to vote all stocks belonging to the fund "at any meeting of stockholders of any corporation in which said stocks may be held"; to "immediately invest" all interest and dividends received "in safe and reliable stocks and bonds, or loan the same upon adequate real estate security on such time" as their judgment may deem "for the best interest of the City."⁹ They were given power, too, with the consent of the City Council, "to sell and dispose of any of said stocks, shares and bonds for cash, and to invest the proceeds thereof in other stocks, or in such other manner as they shall consider to be for the interest of the City, and shall, when the aforesaid Water Works' debt shall become due, or any part thereof, sell such stocks, shares and bonds, or such portion as may be necessary for cash, and apply the proceeds thereof in payment of said Water Works' debt as contemplated by Section one of this Act."¹⁰

⁴ Section 1.

⁵ Section 7.

⁶ Section 5.

⁷ Section 2.

⁸ *Ibid.* The fiscal year was afterwards made to begin January 1.

⁹ Section 3.

¹⁰ Section 4. This section was amended in 1888.

Henry B. Payne, Franklin T. Backus, William Case, Moses Kelley, William Bingham, "and their successors" were named as commissioners. In case of the death, resignation, or removal from the county of any commissioner, or of a vacancy in the Board for "any other cause, excepting removal from office by the Common Pleas Court," the remaining commissioners were given power to choose a successor and to give him a certificate of appointment subject to the approval of the City Council.¹¹ If, however, a commissioner, or commissioners, should be removed from office by the Common Pleas Court because of malfeasance, misconduct, or neglect of duty, then it became the duty of the Court "to appoint some other suitable person or persons to fill the vacancy or vacancies thus created."¹² The act both authorized and required the special commissioners, appointed by the General Assembly in 1846, 1849 and in 1851 to subscribe in the name of the City to the capital stock of the Cleveland, Columbus and Cincinnati, the Cleveland and Pittsburg, and the Cleveland, Painesville and Ash-tabula Railroad Companies to transfer "all stocks, shares, bonds, credits and moneys and other assets" owned by the City, and in their hands, to the Sinking Fund Commissioners.¹³ The Act was made effective and "in force on and after its passage."¹⁴

¹¹ Section 5.

¹² Section 6.

¹³ Section 8.

¹⁴ Section 9.

II.

THE ORIGIN OF THE FUND.

The first railroad corporations of Ohio appealed with remarkable success to the local political units of the State for aid in the establishment of their roads. Prior to September 1, 1851, they had sold to them \$5,635,500 of their capital stock of which \$4,128,000 was taken by counties, and \$1,507,500 by cities, towns and townships. The stock was to be paid for by interest bearing bonds issued by the corporation purchasing the stock. Up to this same date, September 1, 1851, the counties of the State had paid \$3,963,165.86 on the bonds issued in payment of the stock. They had received \$181,470.78 in dividends, and had realized \$738,300.33 from stock sold. The cities, towns, and townships had paid \$1,342,993.94 on the stocks purchased. They had received \$1,762.50 in dividends and \$228,240.60 for stock sold.¹⁵

The City of Cleveland made subscriptions to the stock of three roads. The first was authorized by an act of the General Assembly, February 24, 1846. This act named Zalmon Fitch, John M. Woolsey, Richard Hilliard, Samuel Williamson and Dudley Baldwin special commissioners to subscribe in the name of the city for not more than \$200,000 of the capital stock of the Cleveland, Columbus and Cincinnati Railroad Company.¹⁶ To pay for the stock, the commissioners were empowered to issue interest bearing "bonds, scrip, or other contracts in proper form." The interest was to be paid annually, and the bonds were to mature in "not less than ten years after the date of the subscription." It was also stipulated in the act that all avails derived from the sale of stock should be held for the payment of the "bonds, scrip, or other contracts," and be subject to no other liability of the city "so long as such bonds, scrip, or other contracts shall remain unpaid."¹⁷ The commissioners were required to keep a record of all indebtedness issued by them, and, within six months after such indebtedness was contracted, to file a copy of the record with the City Council. On or before the first Monday in June of each year, too, they were required to report to the County Auditor, the amount of principal and interest to be paid in the following year, any deficiency then existing, and the dividends and proceeds expected from the sale of stock.¹⁸

The commissioners purchased \$100,000 of the stock for which the railroad company agreed to accept the same amount of city bonds at

¹⁵ Annual Report of the Auditor of State for 1873. See Table XXV., P. 269-271. This gives the amount of stock subscribed for each county, city, town, and township within each county, of the State, prior to September 1, 1851. It also gives for each county, city, town and township, the amount of interest paid upon the bonds issued for the stock, the dividends received; and the proceeds derived from stock sold.

¹⁶ Laws of Ohio, Vol. 44, pp. 167-170.

¹⁷ Section 1 of Act.

¹⁸ Section 1.

par. Nearly two years later, April 1, 1848, the bonds were issued.¹⁹ They bore interest at six per cent, and were to mature in 1859. Just one year later, April 1, 1849, the commissioners made a second issue of bonds for the purchase of an additional \$100,000 of stock. This purchase was made at exactly the same rate, and on the same time, as the first. As the road was not completed until 1851 there could be no dividends until after that time. To take care of the accruing interest on the bonds, the city in 1848, 1849 and 1850, made tax levies of \$6,800, \$5,000 and \$13,000 respectively. With the exception of these levies, and the loan of its credit for \$200,000 of bonds issued for that amount of capital stock, the city gave no other equivalent to the railroad. At maturity, the bonds were paid from dividends received from the stock, and a surplus of \$140,833.70 was left in the hands of the commissioners. In November, 1859, \$114,606.41 was paid by the commissioners to redeem \$100,000 of bonds with deferred interest issued for that amount of stock in the Cleveland and Pittsburgh Railroad Company. The balance, \$26,277.29, was turned over to the Sinking Fund Commissioners, May 3, 1862, in a note of the City of Cleveland bearing interest at six per cent. After deducting from the surplus, \$140,833.70, the amount of the tax levies²⁰ made between 1848 and 1851 to pay the interest on the bonds, there remained to the city a net gain of \$116,033.70. In other words, the city gained that amount between 1848 and 1862 with no other asset than its credit. In the Second Annual Report, the Directors of the road give an account of this transaction from the standpoint of the railroad company.²¹ In their third report it is stated that both "Cleveland and Columbus cities then at the lowest stage of depression, came into the work with hesitation and reluctance." As to the gains resulting from the transaction the report adds: "It (the railroad) has profited every one who has invested in its stock or its bonds; it has duplicated the wealth of the country which it penetrates, and trebled that of the two flourishing cities which it connects."²²

TABLE I

Showing Result of Investment of the City of Cleveland in the Cleveland, Columbus and Cincinnati Railroad Company.

Expense:

City Bonds issued.....	\$200,000.00
Interest on same for 1848, 1849 and 1850.....	24,800.00
Total outlay	\$224,800.00

Receipts:

City Bonds issued for C. C. & C. R. R. stock (Paid by the Railroad Company)	\$200,000.00
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¹⁹ The negotiable value of the bonds at this time was 88 per cent but were accepted by the road at par as stipulated at the time of the purchase of the stock. *Supra* 8.

²⁰ The total of the three levies was \$24,800.

²¹ Second Annual Report of the Directors of the Cleveland, Columbus and Cincinnati Railroad Co., January 12, 1853, p. 5.

²² Third Annual Report (*Ibid*) p. 9.

City Bonds issued for C. & P. R. R. stock, with deferred interest, paid by dividends from the C. C. & C. R. R.....	114,606.41
City note turned over to Sinking Fund, May 3, 1862.....	26,277.29
Total receipts	\$340,883.70
Outlay	224,800.00
Net gain	\$116,083.70

The second investment of the city was in the Cleveland and Pittsburgh Railroad Company. This was authorized by an act of the General Assembly passed February 16, 1849.²³ Moses Kelley, Elisha Sterling, Philo Scovil, Henry W. Clark and Harvey Rice were named as special commissioners to purchase \$100,000 of the stock. However, before the purchase could be made the act required that the question be submitted to the legal voters of the City.²⁴ This was done on April 4, of that year. The vote stood 1,157 in favor of the purchase to 27 against.²⁵ The stock was purchased, but as the records of the special commissioners are now lost, it is impossible to give details of the transaction. The first annual report of the commissioners to the City Council shows that \$100,000 of the city bonds were issued with which to purchase the stock. The bonds bore date of November 1, 1849, and were to mature in ten years.

The first years of this road were not prosperous. It struggled for years under influences so depressing that it was not until long after the stock was turned over to the Sinking Fund Commissioners and sold by them that a better and more prosperous era began. As late as 1860, the stock had little more than a nominal value; and in 1862 the city council authorized its sale at twenty-five per cent of its par value.²⁶ Notwithstanding these adverse conditions the interest on the bonds continued. This in the ten years from the date of the issue of the bonds until 1859, when they matured, amounted to \$66,000. The Cleveland and Pittsburgh Railroad paid \$8,200 of this from the sale of stock dividends; \$14,606.41 was paid by the Cleveland, Columbus and Cincinnati Railroad;²⁷ and the balance, \$37,193.59, was raised by tax levies on the first four wards of the city.²⁸ On May 10, 1862, the commissioners turned over the stock to the Sinking Fund. The transaction was anything but advantageous to the City. At the time of the transfer of the stock to the Sinking Fund Commissioners, the cash avails received by the City from the road were the \$8,200 for interest on the bonds.

²³ Laws of Ohio, Vol. 47, pp. 146-149. The provisions of the act were in the main the same as in the act authorizing the purchase of stock in the Cleveland, Columbus and Cincinnati Railroad. *Supra*, p. 8.

²⁴ Section of act.

²⁵ Daily Herald (Cleveland) April 4, 1849.

²⁶ *Id.* 16.

²⁷ See Table I. *Supra*, p. 9.

²⁸ This was in accord with the terms of annexation between the City of Cleveland and Ohio City. See p. 5.

TABLE II

Showing Result of Investment of the City of Cleveland in the Cleveland and Pittsburgh Railroad Company

Expenses:

City Bonds issued.....	\$100,000.00
Interest on same from 1849 to 1859.....	60,000.00
Total outlay	\$160,000.00

Receipts:

Payment of interest from sale of stock dividends by the C. & P. R. R.....	8,200.00
Total receipts	\$ 8,200.00
Difference between expenditures and receipts.....	\$151,800.00

Late in 1862, the Sinking Fund Commissioners sold the stock of this road for \$42,937.50 which, deducted from the above, gives \$109,262.50 as the net loss to the City from the transaction.

The third venture of the City was a subscription for \$100,000 of the capital stock of the Cleveland, Painesville and Ashtabula Railroad. It was authorized by an act which passed the General Assembly, February 13, 1851.²⁹ Melancthon Barnett, Hiram V. Wilson, Arthur Hughes, Charles Hickox and Oliver H. Perry were named special commissioners to make the subscription if approved by the legal voters.³⁰ To determine the wishes of the voters in the matter, the Mayor was empowered to order by proclamation, a special election. The election was held, and favored the purchase of the stock³¹ which was made by the commissioners.

To pay for the stock the commissioners issued \$100,000 of city bonds bearing interest at seven per cent. The commissioners agreed to take the stock at par and to the redemption of the bonds at their face value provided they were not sold below 93 per cent. On its part the railroad agreed to indemnify the city for the interest on the bonds until the dividends from the stock should reach seven per cent. The bonds when sold realized 98 per cent of their face value, and the city was required to pay but \$2,000 to bring them to par. This was raised by a tax levy on the first four wards of the city.³²

The financial management of the road was admirable from the start. The men who controlled it were able and efficient in all respects. When the road was completed it started immediately upon an era of prosperity. Its stock was popular and rose rapidly in the market. In August, 1852, the directors declared a dividend of twenty-five per cent in new stock. Between that date and June 1, 1854, two other dividends, one of twenty and the other of thirty per cent were made. The first was declared in March, 1852; and the second in May, 1854. Both were paid in new stock. In this time, too, the whole stock, notwithstanding the increase, maintained a market value of 125.

²⁹ Laws of Ohio, Vol. 49, pp. 502-505.

³⁰ Section 9 of Act.

³¹ Daily Herald.

³² See p. 5.

In May, 1854, the commissioners sold \$100,000 of the stock they held in this road to the Cleveland, Zanesville and Cincinnati Railroad. By the terms of the sale, the city was to receive \$125,000, and to retain the right to all dividends and profits on the stock, and to all new stock that the Cleveland, Painesville and Ashtabula Railroad issued between May, 1852, and May, 1859, the date the bonds would mature. After the stock was transferred to the Cleveland, Zanesville and Cincinnati Railroad, it was hypothecated by that company for a loan. Later, the railroad assigned the stock to the City of Cleveland; but the parties holding it failed to hand it over, and suit was brought to recover it. The litigation continued for years, and was not ended when the commissioners in May, 1862, turned over all assets to the Sinking Fund.

The results of this investment were most gratifying. After the commissioners had paid the city bonds, there remained a surplus of \$232,136.19 to transfer to the Sinking Fund Commissioners. Of this amount \$178,520 was in stock of the railroad, whose market value was much in excess of this amount. The other assets, \$53,616.19, included a claim of \$33,415.41 on a depository in New York that had become insolvent.

TABLE III

Showing Result of Investment of the City of Cleveland in the Cleveland, Painesville and Ashtabula Railroad Company.

Expense:

Bonds issued	\$200,000.00
Discount paid on the Bonds.....	2,000.00
Total expense	\$202,000.00

Receipts:

City Bonds paid.....	\$200,000.00
City stock in possession at par.....	178,520.00
Other assets, excluding the \$33,415.41 noted above as worth- less	20,200.78
	<u>\$398,720.78</u>

"This stock was at that time largely above par, and probably worth in all \$220,000, making a total in receipts of \$398,720.78." Deduct from this the \$202,000 of expense account and it appears that the city realized in direct profit, in eleven years, in its stock in the Cleveland, Painesville and Ashtabula Railroad, the sum of \$196,720.78.

III.

THE ORGANIZATION OF THE BOARD OF COMMISSIONERS

The commissioners named in the Act creating the Sinking Fund were from among Cleveland's most distinguished citizens.³³ They

³³ Mr. Henry B. Payne was born in Hamilton, New York, November 30, 1810. He graduated from Hamilton College in 1832, and immediately took up the study of law. In 1833, he removed to Cleveland and entered upon his profession which he practiced with great success for twelve years, when ill health and increasing business cares compelled his retirement. When the government of Cleveland was effected under the municipal charter in 1836, he was appointed the first city attorney. He was a leading spirit in the early railroad enterprises of the State, and with Richard Hilliard, John W. Allen and John W. Woolsey, inaugurated the measures that resulted in the construction of the Cleveland, Columbus and Cincinnati Railroad. In 1851, he became President of the road and served until 1854. The next year he was made a director in the Cleveland, Painesville and Ashtabula Railroad. He had, too, prior to his appointment as one of the Sinking Fund Commissioners, served his city in 1855, as a member of the first board of Water Works Commissioners.—*History of Cleveland* (Biographical). By James Harrison Kennedy. (Cleveland: The Imperial Press, 1897), pp. 60-67.

Mr. Franklin T. Backus was born May 6, 1813, at Lee, Massachusetts. He graduated from Yale College in 1834, and removed to Cleveland two years later and began the study of law. He was called to the bar in 1839, and in 1841 was elected prosecuting attorney of Cuyahoga County. As a Whig, he was sent to the Ohio House of Representatives in 1846; and two years later was elected to the State Senate. In 1861, Governor Dennison appointed him a member of the Peace Conference which met in Washington, February 4, of that year,—Article on "Franklin T. Backus," by Hon. Richard C. Parsons. *Magazine of Western History*, Vol. VIII, p. 8.

Mr. William Case was born in Cleveland, August 10, 1818. He served in the city council from 1846 to 1850, when he became Mayor. In 1852, he was given by acclamation the Whig nomination for Congress in the Nineteenth District. His opponent, the Hon. Edward Wade, had the support of both the Democratic and Free Soil parties, and Mr. Case was defeated by a small plurality. In 1853 he was made President of the Cleveland, Painesville and Ashtabula Railroad. He served in this office four and a half years.—*Cleveland Past and Present*. Maurice Joblin, Publisher. (Cleveland, 1869), pp. 298-300.

Moses Kelly was born in Livingstone County, New York, January 21, 1809. He graduated from Harvard College in 1833, and began the study of law at Rochester, New York. In 1836, he came to Cleveland and became a member of the law firm of Bolton and Kelly. He was elected to the State Senate in 1844; and in 1849 was appointed by the General Assembly one of the commissioners to subscribe for the City of Cleveland to the capital stock of the Cleveland and Pittsburgh Railroad Company. To represent this stock, he was made a director of the company—Ibid, pp. 201-203.

Mr. William Bingham was born in Andover, Connecticut, March 9, 1816. He came to Cleveland in 1836, and secured a position in the hardware store of George Worthington. Two years later he had acquired an interest in the store. In 1841, he purchased the hardware store of Clark & Murphy and established the house of William Bingham and Company, the upbuilding of which was the principal work of his life. He was a member of the city council in 1846. At this time George Hoadley was Mayor; and associ-

were able, of the highest probity, and ever interested in all that made for the advancement of Cleveland. It is in the high character, ability and business prudence of these men, and their successors, that we find the chief reason for the successful administration of the fund and the wise and beneficent uses to which it constantly has been put. On April 15, seventeen days after the passage of the act creating the fund, the Commissioners met at the office of Leonard Case for organization. Mr. Henry B. Payne was unanimously appointed President, and Mr. William Bingham, Secretary pro tem. Three members of the Commission—Messrs. Payne, Backus and Kelley—were appointed a committee to draft by-laws, and to secure from the city council an ordinance creating a Sinking Fund in conformity with the act passed by the General Assembly, March 28.³⁴

Four days later, April 19, a vacancy was created in the Board by the death of Mr. William Case. On May 3 the Board met and, subject to the approval of City Council, appointed Mr. Charles Hickox to fill the vacancy.³⁵ At this meeting, too, Mr. D. H. Beardsley was appointed secretary to the Board; and the Merchants' Bank of Cleveland was designated as the place of deposit "for all moneys belonging to the Sinking Fund." It was further agreed that all bonds, certificates and other assets of the fund should be placed in this bank for safe keeping.

Early in May the special commissioners authorized by the General Assembly to subscribe to the capital stock of certain railroads for the City of Cleveland turned over to the Board the following assets:

I. From the Commissioners of the Cleveland, Columbus and Cincinnati Railroad Company:

An obligation of the City of Cleveland, dated April 27, 1861, payable one year from date, with interest at 6 per cent. \$ 26,277.29

ated in the council with Mr. Bingham were such men as William Case, Samuel Williamson, L. M. Hubby and J. A. Harris. It was in this council that the first steps were taken for the establishment of a system of Water Works; and the first resolution calling for an examination of the question was introduced into the council by Mr. Bingham.—Kennedy's History of Cleveland (Biographical), pp. 68-72.

³⁴ Journal of the proceedings of the Board of Sinking Fund Commissioners created by Act of the Legislature of the State of Ohio, passed March 28, 1862, entitled "An act to authorize the City of Cleveland to fund certain Railroad Stocks."

³⁵ Charles Hickox was a native of Connecticut. He was born November 17, 1810. In 1827 he went to Rochester, New York, to reside. He determined upon a business career for himself, and began it with a clerkship in a country store. Ten years later he came to Cleveland. For a time after his arrival he was a clerk in a forwarding house, then in 1838 he established the commission house of Gillett & Hickox.—Kennedy's History of Cleveland (Biographical), pp. 110-113.

³⁶ Register of Assets of the Board of Sinking Fund Commissioners. A detailed statement of the assets received was given by the Board in their first report to the City Council. See Annual Report of the City of Cleveland, 1863.

The receipts given by the Board indicate that the assets were received from the commissioners of the C. C. & C. road on May 3; and from the commissioners of the other two roads on May 10.

II. From the Commissioners of the Cleveland, Painesville and Ashtabula Railroad Company.

Thirteen hundred sixty-four shares of the capital stock of said company, par value.....	68,200.00
George B. Ely, Secretary's receipt for 20 shares of the capital stock of the C. P. & A. R. R. Co., hypothecated to Ely for payment of \$9,000 loaned to the special commissioners, January 13, 1862.....	10,000.00
An assignment from the Cleveland, Zanesville & Cincinnati Railroad Company of a certificate for 200 shares of the capital stock of the C. P. & A. R. R. Co., the title to which was in litigation in District Court of Cuyahoga County.....	100,000.00
Thirty-five 7 per cent mortgage bonds of the C. P. & A. R. R. Co., each \$500.....	\$ 17,500.00
Scrip for the fractional part of a bond in the C. P. & A. R. R. Co.	320.00
A note signed by Hubby, Hughes & Co., Hubby & Howe, and J. M. Hughes, dated March 15, 1859, for \$1,658.98, on which was a credit endorsement of \$300.....	1,358.98
Two claims against Clark and Williamson, New York (supposed to be valueless) amounting to.....	33,415.41

III. From the Commissioners of the Cleveland & Pittsburgh Company:

Two thousand shares of capital stock in the C. & P. R. R. Co....	100,000.00
A certificate of indebtedness by E. Rockwell, Secretary of the C. & P. R. R. Co., dated November 1, 1859, for.....	809.13
A bill of exchange on New York (entered as cash) the amount of which was held liable for payment of two city bonds, \$1,000 each, with coupons attached.....	2,154.91
Total	\$361,377.52

It has been stated that at the first meeting of the Board a committee was appointed to secure from the City Council the enactment of an ordinance in conformity with the State law creating a Sinking Fund. The council passed such an ordinance at a meeting held May 6. When the Board met on May 10, this ordinance was spread upon its records and made a part of its minutes.³⁷ All legal requirements were now fulfilled; the Board was organized; and all of the assets belonging to it were in its possession.

³⁷ "An ordinance to create a Sinking Fund for the payment of certain indebtedness of the city.

Sec. 1. Be it ordained by the council of the City of Cleveland,—That for the purpose of paying so much of the indebtedness of said City contracted in the erection of Water Works, a fund hereinafter referred to will be sufficient for, a Sinking Fund is hereby created to which is hereby appropriated all the Railroad Stocks, Shares and Bonds, and proceeds thereof, and all assets growing out of the same now in the hands of the commissioners of said City, and now held and owned by said City, and the interest, dividends and proceeds thereof hereafter to accrue thereon or to be realized therefrom, in pursuance of an act of the Legislature of the State of Ohio entitled "An act to authorize the City of Cleveland to fund certain Railroad Stocks, March 28, 1862." Said fund to be managed, controlled and applied in all respects in accordance with the provisions of said act.

I. U. Masters, President of the Council.

C. E. Hill, City Clerk.

IV.

THE GROWTH OF THE FUND

1863-1880

The first annual report of the commissioners, January 3, 1863, showed a reduction in the nominal assets from \$361,377.52 to \$332,059.07.³⁷ This was due to the sale of the stock of the Cleveland and Pittsburgh Railroad Company. On September 30, the City Council passed the following resolution: "That the Commissioners of the Sinking Fund, be and they are hereby requested, to sell the Pittsburgh Railroad stock now in their hands, belonging to the City of Cleveland, whenever in their judgment the interests of the City will be promoted thereby: Provided always, and it is hereby declared to be the sense of this Council that said stock ought not to be sold at a lower rate than 25 per cent on the dollar."

A certified copy of this resolution was laid before the Sinking Fund Commissioners at their meeting held the next day, October 1. The Commission by resolution authorized its President "to take such measures as in his judgment may be advisable, for the sale, in the City of New York of the stock of the Cleveland and Pittsburgh Railroad Company held by the Board, and amounting to \$100,000" according to the terms of the resolution by the City Council. Mr. Payne immediately took steps for the disposal of the stock, and at the next meeting of the Commission reported that it had been sold at the following rates:

1900 shares, \$50 each, \$95,000 @ 43 per cent	\$40,850.00
100 shares, \$50 each, 5,000 @ 38 1/4 per cent	1,937.50
	<hr/>
	\$42,787.50
Commission 1/4 of 1 per cent on \$100,000	250.00
	<hr/>
	\$42,537.50

In this sale there was no real loss as the stock brought about twice as much as its quotation in May when the Sinking Fund Commission took charge of it.

In other respects, too, the first year was most satisfactory. On July 1, the Cleveland, Painesville and Ashtabula Railroad Company had voted an increase of one million dollars to its capital stock and divided it pro rata according to holdings among the stockholders. This gave the City an increase of 1,188 shares. The Company also voted a dividend of ten per cent on the old stock which was to be applied in payment of the new stock issued. The City's share was \$17,820.00. At the same time, too, the Company declared a dividend payable in 3 1/2 per cent mortgage bonds of the Company. From this

³⁷ Supra, p. 15.

source the City received \$5,940.00 which with sixty dollars of the bond scrip already held by the Commission equalled "the price of twelve bonds of \$500.00 each, a certificate for which was accordingly issued."⁸⁸

From this time the Fund increased rapidly. In the first ten years following the organization of the Commission, the total assets, par value, rose to \$1,551,106.41. The net income for the year ending December 31, 1872, was \$98,770.20. In this period the assets had increased \$1,189,728.89, and the annual earning power of the Fund had risen to almost one hundred thousand dollars. The chief factor in this remarkable increase was the Cleveland, Painesville and Ashtabula Railroad. The road was prosperous and there were always good dividends. In January, 1863, the Commission received from this source \$15,681.60, in the following July, \$29,403.00, and in January, 1864, on its stock and stock scrip, \$34,214.40. The next four dividends, those of April and July, 1864, and January and July, 1865, were \$11,800 each.³⁹ In this latter year the stock holdings of the City in this Company were increased from \$237,600 to \$300,000. On these holdings the Commission received between July, 1865, and July, 1867, four semi-annual dividends, each for \$15,000. In October of 1867, the Company issued and distributed to its stockholders 75 per cent in stock. This increased the stock in the hands of the Commission to \$525,000. This increase, however, must not be regarded as a division of earnings of the road, but rather as an increase for the equalization of its capital under a "contract for a lease and consolidation of earnings with the Cleveland and Toledo Railroad Company." The dividends for January and July, 1868, were each for \$18,375.00, but that for January, 1869, was at 4½ per cent and from it the Commission realized \$23,625.00. The next four dividends were each for \$21,000 and were paid in August, 1869, February and August, 1870, and February, 1871. In April, 1871, the Commissioners sold twenty-five thousand dollars of this stock for \$26,602.71, a net gain on the par value of \$1,602.71. The holdings of the Commission in this road were now \$500,000. On this stock the Commission received dividends of \$20,000 each in August, 1871, February and August, 1872, and January, 1873.

In March, 1869, the Cleveland, Painesville and Ashtabula and the Cleveland and Toledo Railroads were consolidated and called the Lake Shore Railway. Two months later the Lake Shore and Michigan Southern Railroad was born in the consolidation of the Lake Shore Railway and the Michigan Southern and Northern Indiana Railroad.⁴⁰ In 1873, in consideration of the surrender of \$66,666.71 of

⁸⁸ Journal of the proceedings of the Board of Sinking Fund Commissioners created by Act of the Legislature of the State of Ohio passed March 28, 1862, entitled "An Act to Authorize the City of Cleveland to fund certain Railroad Stocks."

³⁹ The dividend of April, 1864, was an extra one.

⁴⁰ History of the Lake Shore and Michigan Southern Railway by C. P. Leland. "The Station Agent" for February, 1894, pp. 26-37. See also "When Railroads Were New," by Charles Frederick Carter (New York, 1909), p. 218.

stock certificates of the Cleveland, Painesville and Ashtabula Railroad, the Sinking Fund Commission received \$200,000 of the consolidated stock. The holdings of the Commission in the consolidated road were now \$700,000 and in August of this year (1873) it received a dividend of 4 per cent, \$28,000. The investment in this road had given most satisfactory results. Between January 1, 1863, and January 1, 1874, it had paid to the Sinking Fund Commission \$397,911 in dividends alone; and besides the dividends paid, there had been as previously stated, large pro rata divisions of stock.

Table Showing Acquisitions of Stock of the Cleveland, Painesville and Ashtabula Railway Company by the Sinking Fund Commission.

Amount received from Special Commissioners May, 1862.....	\$178,200.00
By stock certificate converted into stock.....	59,400.00
By stock dividend	59,400.00
By purchase (cost \$5,700).....	3,000.00
Stock issued for equalization of stock values at time of consolidation with Cleveland and Toledo Railroad Company.....	225,000.00
By surrender of \$66,696.71 of stock certificates in 1873 four years after consolidation with the Michigan Southern Railroad Co.	200,000.00
Total received	\$725,000.00

When the Sinking Fund Commissioners received the assets from the Special Commissioners authorized to subscribe for the capital stock of this road, \$10,000 was hypothecated for a loan of \$9,000 and \$100,000 was in litigation. On May 2, 1854, an agreement was made between the Special Commissioners and the Cleveland, Zanesville and Cincinnati Railroad Company by which \$100,000 of the Cleveland, Painesville and Ashtabula Railroad Company was to be transferred to the Cleveland, Zanesville and Cincinnati Railroad Company in consideration of two thousand five hundred shares (par value \$125,000) of the latter company. In the agreement it was stipulated that in the transfer the City of Cleveland reserved the right "to receive for the use of the City of Cleveland all dividends that shall be declared on said stock by the said Cleveland, Painesville and Ashtabula Railroad Company, and all profits to which the holder of such stock shall be entitled between the date hereof and the first day of May, A. D. 1859, and the right to subscribe for all new stock, that the holder of such stock shall be entitled to subscribe for during the term aforesaid, and like manner reserving the exclusive right to represent said stock and to vote thereon at all elections and other meetings of said Cleveland, Painesville and Ashtabula Railroad Company during the like period."

⁴¹ Memorandum of Agreement made May 2, 1854, by and between Melancthon Barnett, Hiram V. Willson, Arthur Hughes, Charles Hecks and Oliver H. Perry, Commissioners appointed by an act of the General Assembly of the State of Ohio, passed February 13, 1851, entitled "An act to authorize the City of Cleveland to subscribe to the capital stock of the Cleveland, Painesville and Ashtabula Railroad Company of the first part, and the Cleveland, Zanesville and Cincinnati Railroad Company of the second part." The agreement was signed by all the Commissioners, and for the railroad by Simon Perkins, its President.—Ohio Supreme Court Reports, Vol. 16, pp. 240-242.

On its part the railroad company reserved to itself the right "to receive for its own benefit all dividends that shall be declared" on the stock of the Cleveland, Zanesville and Cincinnati Railroad and "all profits to which the holder of the same shall be entitled between the date hereof and the first day of May, A. D. 1859, and the right to subscribe for all new stock that the holder of such stock shall be entitled to subscribe for during the term aforesaid, and in like manner reserving the exclusive right to represent said stock, and to vote thereon at all elections and other meetings of said Cleveland, Zanesville and Cincinnati Railroad Company."⁴² The railroad company guaranteed that its stock given to the Commissioners in exchange for that of the Cleveland, Painesville and Ashtabula Railroad Company should "be worth in the market" on May 1, 1859, and "for thirty days thereafter, the full sum of one hundred and twenty-five thousand dollars." In case it was not worth this sum within the time specified, the company agreed to make up to the Commissioners or their successors, the amount that the value of said stock should lack to bring it to par; and to secure the fulfillment of this stipulation, the railroad further agreed that it would "execute and deliver" to the Commissioners "income bonds to the amount of one hundred and fifty thousand dollars, which bonds by the terms thereof shall be convertible at the pleasure of the holder thereof, at any time after the first day of May, A. D. 1859, into the stock of said Company, payable on the said first day of May, A. D. 1859, to bear interest at the rate of seven per cent per annum after maturity, if not then discharged, and to be held by the said party of the first part as collateral security" for the fulfillment of the agreement.⁴³ The agreement further provided that the Commissioners might sell these bonds, or as many of them as might be necessary, in the stock market of New York to realize the difference between the market and par value of the stock in case the stock was below par.

On May 15 (1854), the Commissioners delivered the certificates of stock to Simon Perkins, John W. McMillen and Horace Miller, the committee appointed by the railroad company to negotiate for the same. On the transfer of the certificates it was understood that they "should be used by the company for no other purpose than to raise the means of constructing that portion of the company's road which lies between Millersburg and Zanesville, and that they should not be used at all unless the subscriptions so promised along the line of the road to the amount of \$400,000 should first have been secured; and that for the fulfillment of which condition Perkins and McMillen gave to the Commissioners their solemn assurance." At this time McMillen was the treasurer and financial agent of the railroad. He continued in this capacity to January 1, 1855. As financial agent he was authorized to "negotiate the ordinary securities belonging to the company, and raise funds for its use," but he had "no authority from the board of directors to dispose of the two thousand shares of stock for any purpose whatsoever." McMillen, who was President of the Bank

⁴² Ibid.

⁴³ Ibid.

of Akron, as well as financial agent of the railroad company, had been advancing for some time the money of the bank to the use of the railroad company. By October 16, 1854, the amount so advanced was about one hundred and five thousand dollars. On that day he communicated this fact to the board of directors, giving the amount in gross "without any details, items or dates." The board of directors, on this same date, "sold, assigned, transferred, set over and pledged" to McMillen the two thousand shares of stock of the Cleveland, Painesville and Ashtabula Railroad Company to protect him for the advances he had made. On the next day McMillen assigned this stock to the Bank of Akron. Eleven days later the directors of the railroad rescinded all of the resolutions it had adopted October 16. On November 23, 1854, the Bank of Akron now holding the certificates of stock became insolvent by its failure "to redeem its circulating notes in the manner prescribed by the charter." As the bank was a branch of the State Bank of Ohio, all its "Property, securities, claims and effects of every description, including the claim against McMillen, with the stock as security for payment" passed to and became vested in the State Bank of Ohio. Later, May 2, 1859, the Cleveland, Zanesville and Cincinnati Railroad re-transferred the stock to the Special Commissioners from whom they had received it.

The stock, however, was not delivered, and suit was brought in the District Court against the State Bank of Ohio, Christopher Wolcott, as receiver of the Bank of Akron, John W. McMillen, the Cleveland, Zanesville and Cincinnati Railroad Company, and the Cleveland, Painesville and Ashtabula Railroad Company "to perpetually enjoin all the defendants, except the latter company, from transferring or in any way disposing" of the certificates. From the District Court the case went to the Ohio Supreme Court. It was not finally disposed of until more than two years after the organization of the Sinking Fund Commission. At the December term of the Supreme Court, 1865, a decision was rendered. This was given by Chief Justice Jacob Brinkerhoff and was concurred in by Associate Justices Josiah Scott, Luther Day, William White and John Welch. Judge Brinkerhoff decided in favor of the plaintiff, the City of Cleveland, upon two grounds: (1) That the Commissioners of the City "had no power to make the contract of exchange which they assumed to make," and (2) That the "so-called contract for an exchange of stocks, was obtained from the Commissioners of the City of Cleveland by false and fraudulent representation made to them, in the course of the negotiation, by one McMillen, acting in behalf of the Cleveland, Zanesville and Cincinnati Railroad Company."⁴⁴

On May 4, 1869, Mr. D. H. Beardsley, who had been Secretary to the Commission since May 3, 1862, resigned. On the same date as his resignation his successor, Mr. C. H. Hawkins, was appointed. One year later, May 14, 1870, Franklin T. Backus died. At

⁴⁴ *The City of Cleveland vs. The State Bank of Ohio et al.*—Ohio Supreme Court Reports, Vol. 16, pp. 236, 269.

the meeting of the Commission, June 28, Leonard Case⁴⁵ was elected Commissioner as his successor. Three months later another vacancy occurred in the Commission. On August 15 Moses Kelley died. His successor was not chosen until the beginning of the next year. On January 2, 1871, J. H. Wade was appointed.⁴⁶

The years that immediately followed the war were marked by prosperity throughout the North and West. This made large dividends and high rates of interest possible and helps to explain the rapid growth of the Sinking Fund until at the end of 1872 it amounted to more than a million and a half dollars. In September, 1873, occurred one of the most disastrous financial crises in our history. The alarm was given by the failure of the banking house of Jay Cooke and Company of Philadelphia. Other failures followed rapidly and soon the demoralizing effects of the panic were felt in all parts of the country. Many people believed it to be merely a Wall Street affair and looked for a quick return to the former good times; but the circulation of paper money which constantly fluctuated in volume and value postponed the good times; weeks and months, and even years passed without their return. The maximum number of bankruptcies occurred in 1878.⁴⁷ The production of pig iron declined from 2,560,000 tons in 1873 to 1,868,000 in 1876; our foreign commerce totalled \$28 per capita in 1873, and fell to \$21.93 in 1876; the mileage of new railroads constructed fell from 7,439 in 1872 to 1,606 in 1875;⁴⁷ and the tons of freight carried by railroads in 1874 was 2,414,605 less than in 1873.⁴⁸

The panic affected the Lake Shore and Michigan Southern

⁴⁵ Leonard Case was born in Cleveland, June 26, 1820. He died January 6, 1880. In 1842 he graduated from Yale College and during the next two years he gave his attention to the study of law in the Cincinnati Law School. He was admitted to the bar and opened a law office in Cleveland, but probably never endeavored to establish a general practice. His purpose in his law studies was probably "to fit himself to be useful to his father and to the estate which must at all times demand his attention." He occupied a high place in the business life of Cleveland, and was ever interested in the future development of the intellectual life of the City as his gifts to Case Library and his founding of The Case School of Applied Science attest.—*Biographical Cyclopaedia and Portrait Gallery of the State of Ohio* (Cincinnati, 1879), p. 457; also, *Cleave's Biographical Dictionary of the State of Ohio* (Philadelphia, 1875) pp. 37-38.

⁴⁶ J. H. Wade was born in Seneca County, New York, August 11, 1811. He took a leading part in the development of telegraphy. He was at Baltimore when Morse, in 1844, sent his first message over the first telegraph line. Three years later, he constructed a line between Detroit and Jackson, Michigan, and the next year (1848) came to Ohio. He constructed the "Wade Lines" from Cleveland to Cincinnati and to St. Louis. These soon became a part of the "House Consolidation." When the Western Union was organized, he became the first general manager, and later he became president. He was also identified with the banking and railroad interests of Cleveland.—*Biographical Cyclopaedia and Portrait Gallery of the State of Ohio*, pp. 444-445; also, *Cleave's Biographical Dictionary of the State of Ohio*, pp. 27-29.

⁴⁷ In 1878 there were 10,478 bankruptcies.

⁴⁷ Tenth Census of the United States (1880), Transportation, p. 290.

⁴⁸ "Financial Crises and Periods of Industrial and Commercial Depression," by Theodore E. Burton (New York, 1902.) Appendix B, p. 343.

most seriously. The first years following it were years of debt paying under the wise and conservative management of Commodore Vanderbilt. The dividends that were paid were small. In 1874 there was none, and between that date and 1880 the highest was one at $3\frac{3}{4}$ per cent paid in February of the next year. In 1876 there were two, one paid in January and the other in August, each at two per cent; in 1877 there was one at $1\frac{1}{4}$ per cent; in 1878 there were two, one at two per cent, paid in February and one in August at one per cent. The next year brought better results. The Commissioners received a dividend in February (1879) at three per cent and in the following August another at two per cent. For the six years from January 1, 1874, to January 1, 1880, the average annual rate was but two and five-sixths per cent, which yielded to the Sinking Fund a total of \$119,000.

In October, 1873, the Commissioners bought \$10,000 of stock in the New York Central and Hudson River Railroad for \$9,500. In the next year three other purchases of stock were made in this road. In two of these the stock was bought below par, but in the third the rate was a little above. The first purchase was made May 12 and was for \$30,000, for which the Commissioners paid \$29,550; the second was for \$40,000, July 1, and for this they paid \$38,987.50; the third was for \$20,000, October 15, and this cost \$20,225.00. The fund now held \$100,000 of this stock. By January 1, 1878, this amount had been increased to \$200,000. February 3, 1875, the Commissioners purchased \$40,000 of the stock at 101 $\frac{1}{8}$, paying \$40,450; \$10,000 more was purchased the following October for \$10,262.50; and on June 29, 1877, the President of the Commission was authorized to purchase \$50,000 more. On June 20, \$40,000 of this amount was bought—all below par; \$30,000 was had at 90 $\frac{1}{2}$, \$27,150; and \$10,000 at 90 $\frac{3}{4}$, \$9,037.50. On the sixth of the following August an additional \$10,000 was bought at 93 $\frac{1}{2}$ and for this the Commission paid \$9,350. The road regularly paid quarterly dividends of two per cent. Between October 1, 1873, when the first ten thousand dollars of stock was bought, and January 1, 1880, the Commissioners received from this source \$67,800. In 1879 the Commissioners made an investment in another railroad when, on October 6, they purchased five hundred shares of stock, \$50,000 par value, in the Kalamazoo, Allegan and Grand Rapids Railroad under guarantee of the Lake Shore and Michigan Southern of six per cent dividends, payable semi-annually.

On January 1, 1879, four hundred thousand dollars of Water Works Bonds fell due. To take care of this liability, the President of the Commission was authorized by vote of the Board to take steps to sell \$37,500 of bonds of the Cleveland, Painesville and Ashtabula Railroad due July 1, 1880; \$83,500 bonds of the same road due October 1, 1892; and \$52,500 bonds of the Lake Shore Railway due April 1, 1899. To further prepare for the liquidation of these bonds, the Commissioners negotiated a loan of \$86,000 from the Second National Bank of Cleveland and gave a note payable on or before October 1, 1879, with interest at six per cent. In the resolution of

the Board providing for this loan it was stipulated that both principal and interest should be paid out of the income of the Fund and that \$100,000 of the bonds of the Lake Shore and Michigan Southern of the issue of October 1, 1869, should be hypothecated to secure the loan. On December 31, \$400,000 were sent to New York to liquidate the bonds.

On January 1, 1880, the total assets of the Fund were \$1,928,742.50. Adding to this amount the \$400,000 paid January 1, 1879, to liquidate Water Works bonds, we find that between January 1, 1863, and January 1, 1880, a period of seventeen years, that the net gain was \$1,996,683.43. At this time the investments consisted of \$750,000 (7,500 shares) in railroad stock; \$590,000 in seven per cent railroad bonds; \$100,000 in seven per cent bonds of the Chicago and Atchinson Bridge Company;⁴⁹ \$340,000 in seven per cent bonds of Cleveland City; \$58,590 in an individual note with collateral security; and \$90,152.50 in cash. The seventeen years, despite the panic of 1873, and the prevailing hard times in the years that immediately followed were years of marked success for the Fund, and show conclusively what may be accomplished by municipalities if their funds are invested under a wise and conservative management.

Table Showing Growth of Fund From January 1, 1863 to
January 1, 1873.

January 1, 1863	.....\$ 332,059.07
January 1, 1864	.....422,203.36
January 1, 1865	.....470,858.91
January 1, 1866	.....569,143.59
January 1, 1867	.....597,272.73
January 1, 1868	.....933,923.78
January 1, 1869	.....1,008,838.50
January 1, 1870	.....1,146,100.68
January 1, 1871	.....1,209,860.93
January 1, 1872	.....1,311,550.79
January 1, 1873	.....1,551,106.41
January 1, 1874	.....1,688,793.79
January 1, 1875	.....1,761,543.44
January 1, 1876	.....1,863,736.41
January 1, 1877	.....1,989,751.84
January 1, 1878	.....2,109,357.21
January 1, 1879 ⁵⁰	.....1,816,690.53
January 1, 1880	.....1,928,742.50

⁴⁹ These were First Mortgage 7 per cent gold bonds and were purchased at par, October 30, 1879.

⁵⁰ On January 1, 1879, the Commissioners paid \$400,000 to liquidate Water Works bonds that matured on that date. Supra, pp. 22-23.

V.

THE FUND AND ITS USE

1880-1890

A vacancy was created in the Board of Commissioners by the death of Leonard Case, January 6, 1880. This was filled at the next meeting of the Board, January 26, by the election of Sylvester T. Everett, subject to the approval of the City Council.⁶¹ Before further consideration of the growth of the fund, and the uses to which it was put in the decade between 1880 and 1890, I desire to call attention to the General and Viaduct Sinking Funds which in 1879 passed under the care and management of the Commissioners of the Sinking Fund of 1862 because of the fidelity and sagacity with which they had administered the Fund of 1862.

Properly speaking, the General Sinking Fund was not a sinking fund at all until management passed to the Commissioners of the Sinking Fund of 1862. The law authorized an annual tax of not less than one mill nor more than three to pay the maturing general bonds for which no other provision had been made. No part of this tax, however, had ever been invested and managed as a sinking fund. Each year a tax was levied to meet the bonds that would mature the next succeeding year; and when the tax money was received it was kept idle in the treasury until it was⁶² needed to liquidate the bonds.

The Viaduct Sinking Fund was the direct result of the legislation that authorized the construction of a viaduct over the Cuyahoga River, making possible closer intercourse between the east and west

⁶¹ Sylvester T. Everett was born in Trumbull County, Ohio, November 27, 1838, and came to Cleveland to reside in 1850. He was educated in the public schools of his native county and the City of Cleveland. For a year after leaving school he was employed by the dry goods firm of S. Raymond and Company and then went to the banking house of Brockway, Wasson, Everett and Company. In 1858 he went to Philadelphia to assist his uncle, Charles Everett, close his business. When his services to his uncle had ended he became superintendent of the McClintocville Petroleum Company and remained with this Company until 1868, when he returned to Cleveland to take the management of the banking house of Everett, Weddell and Company. Eight years later he was made vice-president and manager of the Second National Bank. The following January he was made President and continued in this position until the bank went into liquidation in 1882. Then he organized the National Bank of Commerce and became the first President. Later he organized the Union National Bank. Mr. Everett was also largely interested in the Cleveland Rolling Mill Company and the Little Consolidated Street Railway. He "promoted, financed and built at Akron, Ohio, the first electric street railway in the United States."—"A History of Cleveland," by Samuel P. Orth, 3 volumes. (Chicago-Cleveland, 1910.) Vol. 3, pp. 607-608.

⁶² City Auditor's Report for 1878. See Annual Report of City of Cleveland, 1878.

sides of the city. In the '60s a high level bridge had been advocated and meetings were held to bring about united action in its favor; but there was much opposition and it was not until 1870 that there was a definite plan of procedure. Stephen Buhrer was now Mayor. In his annual address of 1870 he urged the construction of a high level bridge.⁵³ In his address to the City Council the next year, he again called attention to this need.⁵⁴ In the next year these suggestions bore fruit and the Council passed a resolution to consider and report upon the feasibility of a bridge. The committee reported favorably. But so much opposition developed against the kind of a bridge proposed that John Huntington introduced in the City Council a resolution asking for the appointment of a special committee to consider the construction of a bridge across the river at Superior Street and "to confer with the Cleveland, Columbus, Cincinnati and Indianapolis Railway Company, as to the advisability of sinking their tracks below grade." The resolution was adopted, and Mayor F. W. Pelton, City Engineer E. H. Strong, John Huntington and H. W. Leutkemeyer were appointed as the Committee.

On March 19 this Committee made its report, giving two practicable routes. One was from the Atwater Building on Superior Street "to the intersection of Pearl and Franklin Streets." This "would require a continuous high bridge between the points named." The other route was "from the intersection of Superior and Union Streets to the intersection of Pearl and Detroit Streets."⁵⁵

The Committee submitted figures giving cost of each route and urged the adoption of the latter as being the more practicable. The Committee also suggested to the Council that it take steps to obtain from the legislature the necessary authority to meet the situation. On April 27 (1872) the law was passed that gave the City authority to build the Viaduct. It gave the City power to issue \$1,000,000 in bonds "to build the Viaduct, sink the railroad tracks and make such changes as were contemplated in the Ohio Canal." The question of the bond issue was submitted to the voters and carried by a majority of 5,451.⁵⁶

Steps were immediately taken to acquire the right of way on the West Side, and in a little time the contract was let for the masonry on that side. But there was opposition to the enterprise and an injunction completely tied it up until 1873. Progress was slow in the next year. During the years 1874 and 1875 many changes were made that greatly increased the cost, and before the end of the latter year, it was evident to all interested that the money would be exhausted long before the work was completed. To provide for this contingency, the Supplemental Viaduct Act was passed April 6, 1876,

⁵³ Mayor's Annual Message of 1870. See Annual Report of City of Cleveland, 1870.

⁵⁴ Annual Report of City of Cleveland, 1871.

⁵⁵ "A History of the City of Cleveland; Its Settlement, Rise and Progress," 1796-1896, by James Harrison Kennedy. (Cleveland, 1896.) P. 436. Also Orth's "History of Cleveland," Vol. 1, p. 67.

⁵⁶ Kennedy, p. 437.

"enlarging the maximum limit of expenditure" to \$2,700,000. It was specified, however, that \$250,000 of this amount "should be reserved to pay the cost of sinking the railroad tracks." The question of an increased bond issue was referred to the people in a special election and decided affirmatively. At the same election, too, it was decided that tolls should be charged for the use of the Viaduct.⁵⁷ In 1877, Mayor William G. Rose in his address to the City Council said: "I recommend that you provide by ordinance for taking tolls upon the Viaduct, 'prescribing the rates, manner and conditions,' as the statute requires. I suggest that the rates be easy, not oppressive, and that you take action in the matter as soon as possible, that it may be definitely settled before the improvement is completed."⁵⁸ Finally, legislation was secured that nullified the toll decision at the election in 1876 and made it a free bridge. It was four and a half years in building and cost \$2,170,000. On December 27, 1878, it was turned over to the City authorities.

The Supplemental Viaduct Act which was passed April 6, 1876, besides increasing the maximum limit of expenditure also provided for the creation of a sinking fund to pay the principal of the Viaduct bonds at maturity. That part of the act that provided for the sinking fund was found defective. Two years later, May 13, 1878, an amendatory act was passed to cure the defects. This provided for the levy and collection of an annual tax "not exceeding two mills upon the general tax duplicate." In compliance with this provision, and with that authorizing the General Sinking Fund,⁵⁹ the City Council, April 2, 1879, on motion of A. K. Spencer passed an ordinance for the management of the General and Viaduct Sinking Funds. This ordinance placed the care of these funds with the Commissioners of the Sinking Fund of 1862.

At the meeting of the Commission, May 16 (1879) the City Auditor was present and stated that in pursuance of the aforementioned ordinance, he was prepared to pay to the Commission thirty-one thousand three hundred and seventy-six dollars and twenty-two cents then in the City Treasury to the credit of the Viaduct Sinking Fund. On motion of Commissioner Eingham, President Payne was authorized to receipt for this and any other money that might "be passed over to the control and management of the Commissioners in pursuance of the provision of said ordinance."⁶⁰ On January 1, 1880, the total assets of the Viaduct Sinking Fund were \$318,207.24 and of the General Sinking Fund \$20,895.13.⁶¹

Items Constituting the Viaduct Sinking Fund January 1, 1880.

500 shares of stock, Kalamazoo, Allegan and Grand Rapids Railroad 6% dividends guaranteed by the Lake Shore and Michigan Southern Railroad Company	\$ 50,000.00
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⁵⁷ *Ibid.*, 437.

⁵⁸ *Annual Report of the City of Cleveland, 1877*, p. 40.

⁵⁹ *Supra*, p. 24.

⁶⁰ *Journal of the Proceedings of Board of Sinking Fund Commissioners. Minutes of the meeting, May 16, 1879.*

⁶¹ The further growth of these funds and their uses are considered in the final chapter of this monograph.

Valley Railroad 7% bonds.....	265,000.00
Cash on deposit.....	3,297.24
	<u>\$318,297.24</u>

In the ten years following January 1, 1880, the Commissioners sold all of the railroad stock belonging to the Sinking Fund of 1862 except eighteen hundred shares—par value \$180,000—in the Lake Shore and Michigan Southern. On January 1, 1880, they held seven thousand five hundred shares in three different roads. Five thousand were in the Lake Shore and Michigan Southern, two thousand in the New York Central and Hudson River, and five hundred in the Kalamazoo, Allegan and Grand Rapids road. It has already been shown how this stock was acquired.⁶² The thirty-two hundred shares of the Lake Shore and Michigan Southern that were sold in this period brought prices above par except one thousand shares sold October 6, 1886, for \$92,124.50. All told the stock brought \$337,626.60; \$17,626.60 above par. The following table gives the date of each sale, the number of shares sold and the amount received:

Table Showing Disposition of Thirty-two Hundred Shares of Stock in the Lake Shore and Michigan Southern Railway.

October	3, 1880—	500 shares at 107-3/8-1/8	\$ 53,625.00
October	3, 1880—	500 shares at 108-3/8-1/8	54,125.00
December	3, 1880—	600 shares at 102-1/2-1/8	74,025.00
December	3, 1880—	100 shares at 123-5/8-1/8	12,350.00
October	6, 1886—	1,000 shares at 92.1245	92,124.50
October	1, 1888—	300 shares at 101-27/40	30,502.50
January	14, 1889—	200 shares at 104.373	20,874.60
			<u>\$337,626.60</u>

The two thousand shares of stock in the New York Central and Hudson River road were disposed of in two sales. On December 3, 1883, one thousand shares were sold at 118 less $\frac{1}{8}$ commission and brought \$117,875.00. The second thousand shares were sold September 1, 1885, at 98 $\frac{7}{8}$ and brought \$98,875.00. This stock was all acquired by purchase between 1873 and 1877. Most of it was bought below par. The two thousand shares cost \$194,512.50 and realized when sold \$216,750.00—a net gain of \$22,237.50. These shares, too, during the time they were held by the Commission paid regularly quarterly dividends of two per cent each except the last year the Commissioners held them. In the last quarter of 1884 and the first of 1885 they paid but one and a half per cent; for the second quarter of 1885, the rate was one per cent, and for the third quarter it was one-half per cent. Between January 1, 1880, and September 1, 1885, the date when the last thousand shares were sold, the Commissioners received \$74,500 in dividends from this road. As a dividend paying investment this road in this period proved better than the Lake Shore and Michigan Southern. Between January 1, 1880, and August 1, 1881, the Lake Shore and Michigan Southern

⁶² Chapter IV.

paid semi-annual dividends of four per cent each. Then from August 1, 1881, to August 1, 1884, it paid quarterly dividends of two per cent each; but the last two dividends in 1884 were each for only one and a half per cent. During the next two years, 1885 and 1886, the road paid no dividends at all. In 1887 and 1888 there were semi-annual dividends of two per cent each. In 1889 the average was a little better. The dividend for February was at three per cent and that for August, two. All told the Commissioners received \$169,700 in dividends from the Lake Shore and Michigan Southern road between February 1, 1880, and January 1, 1890. The stock of the Kalamazoo, Allegan and Grand Rapids road was sold in two lots. On October 22, 1881, three hundred and eighty shares were disposed of at par for \$38,000 and the remaining one hundred and twenty shares were sold January 1, 1882, at 101½, realizing \$12,180. The stock was bought at par, so the net gain of the selling over the purchase price was but one hundred and eighty dollars. However, when the stock was bought, the Lake Shore and Michigan Southern guaranteed six per cent dividends, payable semi-annually. These were paid regularly as agreed, and between April 1, 1880, and January 1, 1882, the date on which the last of the stock was sold, the Commissioners received six thousand dollars in dividends.

Besides the railroad stock, \$58,590 in an individual note and \$90,152.50 in cash, the remainder of the assets of the fund on January 1, 1880, as has been stated,⁶³ consisted of \$500,000 in railroad bonds, \$300,000 in Cleveland City bonds, and \$100,000 in first mortgage gold bonds of the Chicago and Atchinson Bridge Company. All were good investments, paying seven per cent interest. The railroad bonds were of five different roads. \$245,000 were of the Lake Shore and Michigan Southern, \$250,000 of the Chicago and Northwestern, \$20,000 of the Jamestown and Franklin, \$25,000 of the Cincinnati and Indiana, and \$50,000 of the Valley road. The first bonds purchased were those of the Cincinnati and Indiana Railroad. These were first mortgage bonds guaranteed by the Indianapolis and Cincinnati Railroad. On February 25, 1863, the Board of Commissioners authorized President Payne to buy \$25,000 of them at par. Thirteen thousand dollars was to be paid on that date and the balance as soon as the income of the fund would permit.⁶⁴ In the next year \$45,000 of bonds in the Jamestown and Franklin road were bought. On January 1, 1865, \$5,000 more were purchased, and on July 1, 1865, \$10,000 additional were bought, making the total held in this company \$60,000. The first of the Chicago and Northwestern bonds were purchased in 1876. At that time the Commissioners bought \$150,000 of the bonds at prices ranging from 90 to 95½. The one hundred and fifty thousand cost \$138,002.50. In the next year the Commissioners purchased another hundred thousand. Fifty thousand were purchased in January at prices from 84½ to 93½ and for these the Commissioners paid \$44,386.25. The other fifty thousand

⁶³ Supra 23.

⁶⁴ Journal of the Proceedings of Board of Sinking Fund Commissioners Minutes for meeting held February 25, 1863.

were bought later in the year at rates from 87½ to 94⅛. These cost \$45,390. In all the bonds, \$250,000 par value, cost \$227,778.75. The bonds in the Valley road, \$50,000 par value, were bought in 1879 at 75 and cost \$37,500. The bonds of the Jamestown and Franklin road and much the greater part of those of the Lake Shore and Michigan Southern were held by the Commission until they matured. Of the sixty thousand Jamestown and Franklin road bonds, forty thousand had matured by July 1, 1878. There now remained in the hands of the Commission, twenty thousand dollars of these bonds; of these, ten thousand matured July 1, 1880, nine thousand July 1, 1881, and one thousand July 1, 1882. Of the \$245,000 of Lake Shore and Michigan Southern bonds, one hundred and ninety-three thousand dollars matured October 2, 1882. The remaining bonds of this road were sold by the Commission at prices above par. Thirty-six thousand dollars of them were sold October 9, 1884, for \$42,435; sixteen days later the last of these bonds (\$16,000) were disposed of for \$18,620. On September 6, 1880, the bonds in the Cincinnati and Indiana Railroad—twenty-five thousand dollars—were sold at par; and on June 12, 1883, the fifty thousand in the Valley road were sold at par to the Viaduct Sinking Fund. The Chicago and Northwestern bonds were all sold at good rates above par.

Table Showing Disposition of Chicago and Northwestern Railroad Bonds.

Date of Sale	Par Value of Bonds Sold	Amount Received
October 1, 1884.....	\$ 80,000.00	\$ 99,900.00
October 25, 1884.....	25,000.00	31,343.75
December 13, 1884.....	12,000.00	15,500.00
August 7, 1885.....	33,000.00	42,956.25
October 15, 1885.....	50,000.00	64,937.50
October 25, 1887.....	50,000.00	63,885.00
	<hr/> \$250,000.00	<hr/> \$318,522.50

These bonds proved to be an unusually good investment. As has been stated they were purchased below par and were sold at considerably above. They were purchased for \$227,778.75 and sold for \$318,522.50, bringing a net gain of \$90,743.75. The Chicago and Atchinson Bridge Company bonds were purchased in 1879.⁶⁵ One thousand dollars of these matured June 1, 1883, and five thousand more were redeemed December 1, 1884. There now remained \$94,000 of these bonds. On January 5, 1885, the Board authorized President Payne to exchange them for an equal amount of six per cent bonds to be issued by the Company. The reason for the exchange of the seven per cent bonds for the proposed new six per cent bonds was because the former were held subject to payment on call, while the latter were to be made payable thirty years after date. Later in the year the exchange was made. The disposal of the railroad stock and bonds was followed by a marked increase of Cleveland City bonds

⁶⁵ See note 49, page 23.

in the assets of the Fund. The last of the railroad bonds were sold October 25, 1887. In the itemized statement of assets of the Fund given by the Commissioners in their report for the year ending December 31, 1887, we find \$637,000 in six per cent bonds, \$110,000 in five per cent bonds and \$25,000 in four per cent bonds—all issued by the City of Cleveland.

In this decade, January 1, 1880, to January 1, 1890, the Commissioners of the Sinking Fund liquidated \$1,720,382.29 of obligations of the City of Cleveland. Prior to January 1, 1880, they had paid \$425,000, making a total of \$2,302,503.96 that had been applied by the Commissioners for the benefit of the City down to January 1, 1890. Of this amount, \$925,000 was the original Water Works bonded indebtedness. In 1881, the Commissioners completely wiped out the last of this debt. The first payment was made July 1, 1878, when \$22,500 were used for the redemption of bonds. On December 31 of this same year the Commissioners sent \$400,000 to New York for the redemption of bonds due January 1, 1879.⁶⁶ The next year the Board redeemed \$12,500 of bonds and cancelled an equal amount in the assets of the Fund. In 1880 they paid \$175,000, making a total of \$625,000 of Water Works bonds that had been liquidated. Three hundred thousand dollars of the original indebtedness remained. The bonds for this were among the assets of the Sinking Fund and would become due in 1884. The City Council, March 14, 1881, passed a resolution authorizing and requesting the Commissioners "to transfer to the City Auditor for cancellation the \$300,000 of the Water Works seven per cent bonds falling due in 1884." The same resolution authorized the City Auditor "to receive and cancel the same." Four days later, President Payne was authorized by vote of the Board of Commissioners to deliver these bonds to the City Auditor.⁶⁷

The cancellation of these bonds liquidated entirely the original bonded indebtedness of the Water Works. Before this obligation was liquidated, the City had received other substantial benefits from the Fund. In 1880, the City Council referred to the Commissioners and the City Solicitor a proposed ordinance for the appropriation of money from the Fund "to pay the liabilities of the City for the extension and improvement of certain streets." This ordinance was considered at the meeting of the Board held July 6, when it was recommended that the ordinance be passed with the amendment that the money should be paid "on the requisition of the City Auditor as the same may be needed to meet the liabilities of the City contracts for the extensions and improvements."⁶⁸ The ordinance was passed July 19, and on September 1, in compliance with its provisions, upon requisition of the City Auditor, the Commissioners paid \$317,759.95 for the liquidation of City bonds issued for street extension and improvements.⁶⁹

⁶⁶ *Supra*, p. 22.

⁶⁷ *Journal of the Proceedings of the Board of Sinking Fund Commissioners. Minutes for meeting held March 18, 1863.*

⁶⁸ *Ibid.* Meeting held July 6, 1880.

⁶⁹ *Annual Report of the Sinking Fund Commissioners for 1880.*

The Fund had accomplished its original purpose, the redemption of the principal of the Water Works bonded indebtedness, and henceforth it was used in other directions for the benefit of the City. Just one year, September 1, 1881, after the payment of the \$317,759.95 for street extension and improvement, the Commissioners, upon requisition of the City Auditor, paid \$144,492.87 to redeem Cleveland City bonds.⁷⁰ Between that date and January 1, 1890, they paid obligations of the City to the amount of \$783,129.47. Of this amount, \$4,233.09 were applied in payment of special debts assumed by the City. The greater portion, \$3,727.08, was paid in 1882, and the balance, \$504.01, in 1883. Much the larger part of the total was paid upon requisitions of the City Auditor to pay the City's share of repaving streets. For this purpose a total of \$587,606.14 were applied between 1882 and 1890 as follows:

1882	\$218,132.56
1883	104,913.71
1884	73,451.96
1885	11,779.77
1886	55,259.03
1887	57,405.78
1888	51,681.58
1889	24,981.75
	<hr/>
	\$587,606.14

The sum of \$55,477.22 was supplied to the fire department. On September 22, 1884, the City Council passed an ordinance appropriating fifty thousand dollars from the Fund "to be placed to the credit of the Fire Department Fund to increase the efficiency of said department by procuring a fire boat for use in the river district and to replace five of the engines now in the department."⁷¹ At a meeting of the Board of Commissioners in the following January (1885) it was voted that the President be authorized to pay into the City Treasury, as provided by the ordinance, "a sufficient amount to meet the several payments for five fire engines."⁷² In this year the Commissioners paid \$21,477.22 for fire department purposes, and in the next year (1886) they paid into the City Treasury \$29,000 to pay for a fire boat. Still three years later (1889) they paid five thousand dollars more to apply on a fire boat.

Besides the payment of the special debts assumed by the City, the City's share for repaving streets and the amounts specified to the fire department, the Commissioners in 1883 cancelled forty thousand dollars of House of Correction Bonds that had for a time been a part of their assets, and in 1888 paid \$38,777.14 to apply on the Seneca Street Bridge. This was paid upon the authority of the Board given in a resolution passed August 6, providing that there should be paid "into the City Treasury from time to time upon certificates of the City Auditor in such amounts as may be necessary to pay the cost of the construction of a bridge over the river at Seneca Street

⁷⁰ Ibid. Report for 1881.

⁷¹ Ordinance 171. Passed September 22, 1884.

⁷² Journal of Proceedings of the Sinking Fund Commissioners.

crossing—providing that the sum of such payments shall not exceed \$85,000.”⁷³ In the next year the Commission paid an additional \$39,660.29 for this bridge. Besides money devoted to the erection of the Seneca Street Bridge, the Commissioners, April 13, 1889, voted an amount not exceeding \$8,000 to pay for the “removing the old and constructing a new bridge and approaches over the old river bed at Willow Street.”⁷⁴ The exact amount paid for this purpose was \$7,375.00. The ten years were indeed most advantageous to the City. The following table gives the uses, by years, to which the Fund was devoted from 1878 to January 1, 1890.

City Obligations Paid From the Fund, 1878-1890.

1878—To redeem Water Works Bonds.....	\$422,500.00	
Water Works Bonds cancelled.....	2,500.00	\$425,000.00
1879—To redeem Water Works Bonds.....	\$ 12,500.00	
Water Works Bonds cancelled.....	12,500.00	25,000.00
1880—To redeem Water Works Bonds.....	\$175,000.00	
To pay special debts assumed by City.....	317,759.95	492,759.95
1881—Water Works Bonds cancelled.....	\$300,000.00	
To pay special debts assumed by City.....	144,492.87	444,492.87
1882—To pay special debt assumed by City.....	\$ 3,729.08	
To pay City's share of repaving.....	218,132.56	221,861.64
1883—To pay special debt assumed.....	\$ 504.61	
To pay City's share of repaving.....	104,913.71	
House of Correction Bonds cancelled.....	40,000.00	145,418.32
1884—To pay City's share of repaving.....	\$ 73,451.96	73,451.96
1885—For Fire Department purposes.....	\$ 21,477.22	
To pay City's share of repaving.....	11,779.77	33,256.99
1886—To pay for fire boat.....	\$ 29,000.00	
To pay City's share of repaving.....	55,259.03	84,259.03
1887—To pay City's share of repaving.....	\$ 57,405.78	57,405.78
1888—To apply on Seneca Street Bridge.....	\$ 38,777.14	
To pay City's share of repaving.....	51,681.58	90,458.72
1889—To apply on fire boat.....	\$ 5,000.00	
To apply on Seneca Street Bridge.....	39,122.98	
To apply on Willow Street Bridge.....	7,375.00	
To pay City's share of repaving.....	24,981.75	77,017.03

The large drafts made upon the Fund in these years to pay the

⁷³ Journal of the Proceedings of the Sinking Fund Commissioners Meeting held August 6, 1888.

⁷⁴ Ibid. Meeting April 13, 1889.

obligations of the City considerably reduced the earning power of the Fund. In 1880, the net income was \$136,161.71. Five years later it was less than a third of that amount, being only \$41,582.73. During the remaining years of the decade there was a small increase over that amount. In 1889 it rose to \$58,785.13. At the end of this year, too, the total assets were \$1,054,607.37.

Net Proceeds by Years, 1880-1890.

1880	.....\$	136,161.71
1881	.....	100,896.36
1882	.....	90,814.74
1883	.....	78,513.77
1884	.....	64,690.28
1885	.....	41,582.73
1886	.....	48,023.06
1887	.....	55,210.73
1888	.....	59,374.49
1889	.....	58,785.13

Total Assets by Years, 1880-1890.

January 1, 1881	.....\$	1,596,265.53
January 1, 1882	.....	1,252,849.02
January 1, 1883	.....	1,121,802.12
January 1, 1884	.....	1,072,772.57
January 1, 1885	.....	1,102,187.89
January 1, 1886	.....	1,134,181.29
January 1, 1887	.....	1,090,069.82
January 1, 1888	.....	1,102,049.27
January 1, 1889	.....	1,071,527.54
January 1, 1890	.....	1,054,607.37

VI.

THE FUND AND ITS USE

1890-1900

On January 1, 1890, the Commissioners held one hundred and eighty thousand dollars of the stock in the Lake Shore and Michigan Southern Railroad. It has been shown how this stock came into the hands of the Commissioners and the revenues the Fund received from it through dividends down to 1890. The Commissioners continued to hold this stock as a part of the assets of the Fund until 1898. Then, February 26, on motion of Mr. Andrew Squire,⁷⁵ it was voted to exchange it for three hundred and sixty thousand dollars worth of three and a half per cent bonds in the New York Central and Hudson River Railroad Company; and to sell "any and all" of the ninety-four thousand dollars of bonds issued by the Atchinson Bridge Company if the City Council consents.⁷⁶ On March 14 the City Council voted consent;⁷⁷ and on August 1 of the same year the Commissioners received six thousand three hundred dollars, the semi-annual interest on the three hundred and sixty thousand dollars of bonds.

During the eight years of this decade in which the stock was a part of the assets of the Fund it paid semi-annual dividends of three per cent except four times. On August 4, 1890, it paid only two per cent; February 3, 1891, four per cent; August 3, 1891, two and a half per cent, and February 1, 1892, three and one-half per cent. In the eight years, the Commissioners received a total of ninety-one thousand eight hundred dollars from dividends on this stock. Evidently the investment was still a good one despite the fact that the period was one of great stress in finance.

When the decade began there were many signs of prosperity. Our foreign trade had never been greater; the money market was favorable to business; the tonnage of railroads had increased; and "the amount of liabilities involved in business was less than it had been for ten years."⁷⁸ But other influences were at work that soon changed this into financial trouble. Already there were heavy gold exports and the amounts increased as the months went by. In 1891 the net loss of gold was thirty-four million dollars; the next year this arose to fifty-nine million dollars.⁷⁹ Foreigners did not invest in American securities so liberally as in preceding years. The stability

⁷⁵ Mr. Andrew Squire became a member of the Commission September 19, 1890, to succeed Honorable Henry B. Payne, deceased. See pp. 50-51.

⁷⁶ Journal of Proceedings of the Sinking Fund Commissioners.

⁷⁷ *Ibid.* Meeting of Commission, March 31.

⁷⁸ *National Problems*. By Davis R. Dewey, p. 253 (vol. 24, *The American Nation*. Edited by Albert Bushnell Hart). See also *The Financial Review* (1893) pp. 1 and 2.

⁷⁹ *Ibid.*, p. 252. Also Report of the Secretary of the Treasury, 1891, pp. 144-147.

of the new great industrial companies was undermined by speculation that brought violent fluctuations in the prices of securities. In 1892 and the early part of 1893, "sugar ranged from 78 to 134; cordage, from 91 to 147; distilling and cattle-feeding, from 36 to 72; and lead, from 30 to 52."⁸⁰ The money market of Europe, because of "the scramble for gold," was in an abnormal condition. In 1892, Austria-Hungary decided to resume specie payment and "consequently searched the money markets of the world to provide a redemption fund for gold. Russia mysteriously gathered gold for purposes not then known, and the Bank of France added to her supply to support an increased note circulation." The Barring collapse in 1890 made the English bankers more cautious and more energetic in the matter of strengthening their reserves, and brought about a decline of credit in the Australian colonies. All this added distrust and the effect was not felt more seriously than in the United States. American bankers became exceedingly "cautious in undertaking loans for railroads. For years large railroad systems, burdened with heavy interest charges, had struggled along with varying fortunes. Some had staved off bankruptcy by new borrowings; others aided by the transportation of the large crop of 1891 were delaying the day of reckoning."⁸¹

The superficial sign of prosperity was soon to give way to the distrust that was felt all over the country. The first open break came with the bankruptcy of the Philadelphia and Reading Railroad. This was followed by a stock panic, which brought higher money rates. Securities in which there had been speculation fell in value, and the public treasury was strained to a high tension because of the continued exportation of gold destroying the gold reserve of the Government. Bankers in New York refused to re-discount notes offered by interior institutions, and in June (1893) these same bankers "issued clearing house certificates which were practically loans to embarrassed banks upon acceptable security, and for a brief moment relieved the money market."⁸² More than fifty-five million dollars of clearing house certificates were issued in New York, Boston and Philadelphia.⁸³ But the downward course could not be stayed. In June (1893) the Erie Railroad failed. Matters were complicated still further by the closing of the mints in India to private (free) coinage. This unsettled the value of silver which, in less than a week, in London, fell from thirty-seven and a half pence per ounce to thirty and a half. In the United States the free and unlimited coinage of silver in the ratio of 16 to 1 of gold became a political issue that boded ill to conservative and safe business, which alone made real progress possible. The distrust continued. In the five months between May and October, "bank deposits were diminished by \$378,000,000 and loans about as much."⁸⁴ There were bankruptcies without number. In 1893 six hundred and forty-two banks failed, and mercantile establishments with liabilities that amounted to \$347,000,000. The in-

⁸⁰ Dewey, p. 255.

⁸¹ Dewey.

⁸² Dewey.

⁸³ This amount was a third of the total circulation of those banks.

⁸⁴ Dewey.

crease in railroad construction had not been so slight since 1878, and before the end of 1893, twenty-two thousand five hundred miles of railroads were in the hands of receivers.

Under such economic conditions one would hardly expect a rapid growth in the assets of the Sinking Fund. Despite the ugly economic conditions, however, growth was satisfactory, and complimentary to the wisdom and business prudence of the Commission. In 1890 the total assets were \$1,049,536.36; on January 1, 1900, these had risen to \$1,742,978.25.

The following tables give the net gain by years and the total assets January 1 of each year following

Net Gain	
1890	\$ 59,347.18
1891	62,003.84
1892	62,220.76
1893	61,231.92
1894	67,679.36
1895	65,142.75
1896	68,198.58
1897	74,014.41
1898	254,503.39
1899	46,150.66

Total Assets	
January 1, 1891.....	\$1,049,536.36
January 1, 1892.....	1,054,714.89
January 1, 1893.....	1,116,057.68
January 1, 1894.....	1,167,289.60
January 1, 1895.....	1,234,968.96
January 1, 1896.....	1,300,111.71
January 1, 1897.....	1,368,310.29
January 1, 1898.....	1,442,324.70
January 1, 1899.....	1,696,828.09
January 1, 1900.....	1,742,978.75

Besides the amounts given in the total assets, the Commissioners had paid into the City Treasury on requisition of the City Auditor the following amounts:

1890—To pay City's share of repaving streets.....	\$62,489.48
1891—To pay City's share of repaving streets.....	56,824.31
1892—To pay for lost bonds ⁸⁵	2,210.00
1892—City's share of repaving streets.....	8,667.97

The City obligations paid from the Fund between 1878 and 1890 have been given.⁸⁶ The advantages and gain to the City can best be seen in a recapitulation of the applications of the Fund down to January 1, 1893.

⁸⁵ These bonds Nos. 23 and 89 and two coupons attached should have been a part of the assets of the Special Commissioner of the Cleveland and Pittsburg Railroad Company, but were lost and not found until 1892. At the meeting April 9, 1892, on resolution introduced by Mr. William Bingham, the Commissioners voted their payment; the bonds and coupons aggregated to the sum of \$2,210.00.

⁸⁶ Page 32.

Recapitulation:

Water bonds redeemed and cancelled.....	\$ 925,000.00
House of Correction bonds cancelled.....	40,000.00
City Debt assumed and paid.....	468,696.51
City's share of repaving streets.....	725,587.90
For fire department purposes.....	55,477.22
For bridge construction.....	87,742.13

Total\$2,302,503.76

Besides the amount applied as stated above the Commissioners on January 1, 1893, had assets to the amount of \$1,045,124.70; this amount plus the applications given above gives a grand total of \$3,347,628.46. When the Commissioners assumed office assets to the amount of \$361,377.52 were turned over to them. In thirty years by their prudence and good management they had made this fund produce a net gain of \$2,986,250.94. Evidently here is a lesson in the management of city finances not understood by most American cities, and one which ought to be learned.

At a called meeting of the Commission, April 26, 1893, President Payne stated that its purpose was the appointment of three Park Commissioners. On April 5, of this same year the General Assembly of the State enacted a law, Section 1 which reads as follows: "Be it enacted by the General Assembly of the State of Ohio, That in cities of the second grade of the first class there shall be a board of park commissioners consisting of five members, who shall be electors of the city for which they are appointed; two of whom shall be the Mayor and President of the Council for the time being and three of whom shall be appointed by the trustees of the sinking fund of such city, if there be such trustees; and if there be none, then by the Court of Common Pleas of the county in which such city is situated. But no more than two of said trustees so appointed shall be of the same political party. One member of said board shall be appointed for the term of three years; one member for the term of four years, and one member for the term of five years from the date of their appointment; and at the expiration of each of said terms the appointment of their successors shall be for the term of five years. All the members of said board so appointed shall serve until their successors are appointed and qualified, and all vacancies on said board shall be filled for the unexpired term only."

In accordance with the above section the Board of Commissioners elected Mr. Charles H. Bulkley for the five year term; Mr. Amos Townsend for the four year term; and Mr. John F. Pankhurst for the three year term. On April 13, 1896, Mr. Pankhurst was elected his own successor for five years, from April 26 of that year. In March of 1895, Mr. Townsend died at St. Augustine, Florida, and on the 22nd of the same month Mr. J. H. McBride was appointed his successor for the unexpired portion of the four year term for which which Mr. Townsend had been elected. On April 15, 1897, Mr. McBride was elected his own successor for five years from April 26 of that year. On October 27, 1897, Mr. Pankhurst resigned his office because of ill health, and Mr. S. W. Sessions was chosen three days later to fill the

unexpired term. Admirably as the Board of Commissioners had performed their services in the management of the fund and in making the appointments to the Park Board, there were those who either failed to comprehend their great services to the City, or for other reasons, who objected to their further continuing to exercise the functions granted the Board by the act of March 28, 1862, and amended April 16, 1888, and the act of April 5, 1893.⁸⁷ and Quo Warranto proceedings were brought against the Board by Mr. Theodore L. Strimple, Prosecuting Attorney for Cuyahoga County. Associated with Mr. Strimple were the law firms of Lawrence & Estep, Hamilton, Hamilton & Smith, and Lee & Tilden. The petition and precipe were filed and summons issued, April 23, 1897.

A special meeting of the Board of Sinking Fund Commissioners was called and held May 4, 1897. At this meeting the following resolution was introduced by Mr. Edwards: "Resolved, That this Commission request Honorable W. W. Boynton and Squire, Sanders & Dempsey to represent this Board in the Quo Warranto proceedings brought against this Board by the Prosecutor of Cuyahoga County, Ohio." The petition alleged that "the Commissioners, William Bingham, Sylvester T. Everett, William Edwards, James Barnett and Andrew Squire, are and have been for a long time past unlawfully holding and exercising the following rights, privileges and franchises, within this state, to wit:

1. That of being and acting as the sinking fund commissioners of the City of Cleveland, which said city is a municipal corporation organized under the laws of the State of Ohio, and is a city of the second grade of the first class, and as such sinking fund commissioners of having the custody, control and management of the sinking funds of said city, of the value of more than one million dollars, and of doing and performing all other acts and things provided to be done and performed by the sinking fund commissioners of said city by an act entitled 'An act to authorize the City of Cleveland to fund certain railroad stocks,' passed by the general assembly of Ohio, March 28, 1862, as amended April 16, 1888.

2. That of acting as trustees of the sinking fund of said city, and as such trustees of appointing three members of the Board of Park Commissioners in said city, provided for by section 1 of an act entitled 'An act to provide a board of park commissioners, and to provide for the acquisition of grounds for parks, park entrances and park driveways in cities of the second grade of the first class,' passed by the general assembly of Ohio April 5, 1893.

And the said relator further gives the court to understand and be informed that the defendants are and for a long time past have been unlawfully exercising public offices within this state under the name and style of sinking fund commissioners of the city of Cleveland, under the pretended authority of said act of March 28th, 1862, hereinbefore

⁸⁷ This act gave authority for the appointment of Park Commissioners. The Sinking Fund Commission derived its authority to act as such and was organized under the act of March 28, 1862.

referred to, and as such of exercising all the powers conferred or attempted to be conferred upon the sinking fund commissioners by said act.

And the relator further gives the court to understand and be informed that the said defendants, under the name of sinking fund commissioners of the city of Cleveland, are and have been for a long time past acting as a corporation within this state without being legally incorporated.

And the relator further says that the said act of the general assembly, entitled 'An act to authorize the city of Cleveland to fund certain railroad stocks,' passed March 28, 1862, is in conflict with section 1, of article 13, of the constitution of the state of Ohio, providing that the general assembly shall pass no special act conferring corporate powers; and with section 27, of article 2, of said constitution providing that the election and appointment of all officers and the filling of all vacancies, not otherwise provided for by this constitution or the constitution of the United States, shall be made in such manner as may be directed by law, but no appointing power shall be exercised by the general assembly, except as prescribed in this constitution and in the election of United States senators; and with section 6, of article 13, of the constitution of Ohio, providing that the general assembly shall provide for the organization of cities and incorporated villages by general laws; and with section 26, of article 2, of the constitution of Ohio, providing that all laws of a general nature shall have a uniform operation throughout the state, nor shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except as otherwise provided in this constitution; and that said act of March 28, 1862, is wholly unconstitutional and void.

And the relator further says that the said defendants derive their pretended authority to exercise the rights, privileges and franchises aforesaid solely from said act of March 28, 1862, the said William Bingham being one of the persons originally named as a commissioner under said act, and the other defendants claiming to be such commissioners under and by virtue of appointments, from time to time, to fill vacancies caused by the death of Henry B. Payne, Franklin T. Backus, William Case and Moses Kelley named in said act, such appointments having been made in accordance with the provisions of said act, and not otherwise.

Wherefore the relator prays the advice and judgment of the court in the premises; that the said defendants, and each of them, be compelled to answer to the state of Ohio and show by what warrant they exercise the rights, privileges and franchises and the public offices within this state as aforesaid; and that they and each of them may be ousted and altogether excluded therefrom."

The summons was returned May 3, endorsed to effect that on April 30 the writ had been served on each of the Commissioners. Twenty-four days later the answer of each Commissioner was filed; and on June 7 the plaintiff demurred to the several answers. The Circuit Court, June 24, overruled the plaintiff as to the first, second,

third and fifth defenses, but sustained the demurrer as to the fourth. Both sides took exceptions; and five days later the Commissioners filed an amended answer. On July 3 the Court gave the plaintiff until August 14 (1897) to file an amended petition. On that date the following was filed:

"Theodore L. Strimple, prosecuting attorney for the county of Cuyahoga and state of Ohio, now comes and gives the court to understand and be informed that the defendants, William Bingham, Sylvester T. Everett, William Edwards, James Barnett and Andrew Squire are and have been for a long time past unlawfully holding and exercising the following rights, privileges and franchises, within this state, to-wit:

1. That of being and acting as the sinking fund commissioners of the city of Cleveland, which said city is a municipal corporation organized under the laws of the state of Ohio, and is a city of the second grade of the first class, and as such sinking fund commissioners of having the custody, control and management of the sinking fund of said city, of the value of more than one million dollars, and of doing and performing all other acts and things provided to be done and performed by the sinking fund commissioners of said city by an act entitled "An act to authorize the city of Cleveland to fund certain railroad stocks," passed by the general assembly of Ohio, March 28, 1862, with the amendments thereto.

2. That of acting as trustees of the sinking fund of said city, and as such trustees of appointing three members of the board of park commissioners in said city, provided for by section 1 of an act entitled "An act to provide a board of park commissioners, and to provide for the acquisition of grounds for parks, park entrances and park driveways, and for the improvement, management and control of parks, park entrances and park driveways, in cities of the second grade of the first class," passed by the general assembly of Ohio, April 5, 1893.

And the said relator further gives the court to understand and be informed that the defendants are and for a long time past have been unlawfully exercising public offices within this state and under the name and style of sinking fund commissioners of the city of Cleveland, under the pretended authority of said act of March 28, 1862, hereinbefore referred to, and as such of exercising all the powers conferred or attempted to be conferred upon the sinking fund commissioners by said act and the amendments thereto.

And the relator gives the court to understand and be informed that the said defendants, under the name of sinking fund commissioners of the city of Cleveland, are and for a long time past acting as a corporation within this state without being legally incorporated.

And the relator further says that the said act of the general assembly entitled 'An act to authorize the city of Cleveland to fund certain railroad stocks,' passed March 28, 1862, is in conflict with section 1, of article 13, of the constitution of the state of Ohio, providing that the general assembly shall pass no special act conferring corporate powers, and with section 27, of article 2, of said constitu-

tion providing that the election and appointment of all officers and the filling of all vacancies, not otherwise provided for by this constitution or the constitution of the United States, shall be made in such manner as may be directed by law, but no appointing power shall be exercised by the general assembly, except as prescribed in this constitution and in the election of United States senators; and with section 6, of article 13, of the constitution of Ohio, providing that all laws of a general nature shall have a uniform operation throughout the state, nor shall any act, except upon the approval of any other authority than the general assembly, except as otherwise provided in this constitution; and that said act of March 28, 1862, is wholly unconstitutional and void.

And the relator further says that said act of April 5, 1893, entitled 'An act to provide a board of park commissioners, and to provide for the acquisition of grounds for parks, park entrances and park driveways, and for the improvement, management and control of parks, park entrances and park driveways, in cities of the second grade of the first class,' is in conflict with the same sections of the constitution of the state hereinbefore mentioned, and is also unconstitutional and void in this, among other things, that said act of April 5, 1893, undertakes to grant to the board of park commissioners therein provided for, the power to select, purchase, appropriate and enter upon for public use any property for enlarging any park or parks owned by the city, for which they are appointed, and for establishing such park or parks, park entrances and park driveways as in the opinion of said board it may be necessary from time to time to establish either within or without the limits of such city, and to levy and assess taxes and assessments therefor and for the expense of improving and maintaining the same; to issue bonds for the purposes specified in said act, and to pledge the faith of the city and said tax, which it is made the duty of said board to its successors, annually to levy on the real and personal property returned on the grand duplicate of said city; to adopt rules and regulations regulating the use of said parks, park entrances and park driveways, the violation of any of which rules or regulations is by said act made a misdemeanor punishable as therein provided; and to seize and impound animals and impose a penalty upon each animal so seized and impounded, and to enforce payment thereof in such manner as they shall by their rules and regulations provide; all without the consent or authority of the council of such city or that of any other officer deriving his authority from the electors of such city, and without the action or approval of the electors of such city in any manner whatever, in violation of sections 1, 2, 19 and 20 of article 1, of said constitution.

And the relator further says that said defendants derive their pretended authority to exercise the rights, privileges and franchises aforesaid from said act of March 28, 1862, and the amendments thereto, and from said act of April 5, 1893, the said William Bingham being one of the persons originally named as a commissioner under the said act of March 28, 1862, and the other defendants claiming to be

such commissioners under and by virtue of appointment, from time to time, to fill vacancies caused by the death of Henry B. Payne, Franklin T. Backus, William Case and Moses Kelley, named in said act, such appointments having been made in accordance with the provisions of said act, and not otherwise.

Wherefore, the relator prays the advice and judgment of the court in the premises, that the said defendants, and each of them, be compelled to answer to the state of Ohio and show by what warrant they exercise the rights, privileges and franchises and the public offices within this state as aforesaid, and that they and each of them be ousted and altogether excluded therefrom."

During the January term of Court, February 11, 1898, the attorneys for the Commissioners filed the answer of Mr. William Bingham as follows:

"The defendant, William Bingham, now comes and for his amended answer to the petition of the plaintiffs says that he is the William Bingham named in the act of March 28, 1862, entitled an act 'to authorize the city of Cleveland to fund certain railroad stocks,' 59 O. L. 126, as one of the sinking fund commissioners appointed by that act.

He admits that the city of Cleveland is now, and for many years has been, a city of the second grade of the first class, and that the defendants, as and in the capacity of sinking fund commissioners of said city, have had and have such charge, custody and control and management of the sinking fund of said city referred to in said act, as the statute directs and provided for, and none other.

He admits that the sinking fund commissioners of said city, on the 26th day of April, 1893, appointed Charles H. Bulkley, John F. Pankhurst and Amos Townsend as and to be members of the park board commission, and have filled by appointment all vacancies occurring in said board under and in the exercise of the authority so to do, granted by the act of April 5, 1893, providing for a board of park commissioners in cities of the second grade of the first class.

He further admits that his co-defendants were severally and respectively appointed by the remaining commissioners with the remaining commissioners with the approval of the city council of the city of Cleveland to fill vacancies occurring from time to time in said commission by the death of a sinking fund commission, and as such vacancy occurred.

This defendant denies all and each of the remaining allegations of said petition.

Defense No. 1. This defendant further says that on the 15th day of April, 1862, he qualified as a member of said sinking fund commission by the execution of the bond required by the fifth section of the act of March 28, 1862, and thence continuously to the present time has actively acted as a member of the said commission to the knowledge of the public and of the various officers of said city and county, including the relator and his predecessors in office; and with like knowledge upon the part of the public and of said officials, during all of said time he has openly and continuously exercised all the rights,

privileges, functions and duties prescribed by said act of March 28, 1862, and the amendment thereof, for a sinking fund commissioner to perform. This defendant therefore avers that said action of said plaintiff was not commenced within thirty years after the alleged cause of ouster or action arose.

Defense No. 2.—This defendant further says that said sinking fund commission, so constituted and appointed, has, for thirty-five years and more, as a body openly used and exercised, to the knowledge of the relator and his predecessors in office, and of the general public as well, all the powers, rights and privileges conferred or purporting to be conferred by said act of March 28, 1862, and the amendments thereof, and have during all of said period of time discharged the functions and performed the duties prescribed by said act, and by it directed to be performed by said sinking fund commission.

Wherefore this defendant avers that said action was not commenced within thirty years from the time of the exercise of said powers and privileges and the performance of said duties by said commission or by said city.

Defense No. 3. This defendant further says that the said city of Cleveland, as a municipal corporation, has continuously and uninterruptedly since its passage, exercised all the powers and discharged all the duties prescribed for said city to perform by the act of March 28, 1862, and since the passage of said act, a period now of more than thirty-five years, said city has exercised every power and franchise conferred or purporting to be conferred by said act upon said city, and has performed the same in connection with and through said commission and by no other agency whatever. This defendant therefore says that said city has used and exercised all the powers conferred by said act for a term of more than twenty years prior to the commencement of this action.

Defense No. 4. For other and further answer to the petition this defendant further says that under and in pursuance of an act of the legislature passed February 24, 1846, the city of Cleveland, through commissioners named in and appointed by said act, subscribed for \$200,000, par value of the capital stock of the Cleveland, Columbus and Cincinnati Railroad Company and issued the bonds of the city thereon; that said stock was duly issued to said city and became its property; that by the terms of said act Zalmon Fitch, John M. Woolsey, Richard Hilliard, Samuel Williamson and Dudley Baldwin were appointed commissioners to make said subscription, and among other things were charged with the duty of controlling and managing the said stock, collecting dividends thereon and re-investing the same. By a similar act of the legislature, passed February 16, 1849 (Laws of that year, p. 146), the city was authorized to make a similar subscription through commissioners named in said act, of \$100,000, to the stock of the Cleveland and Pittsburgh Railroad Company. By said act last named, Moses Kelley, Elisha T. Sterling, Philo Scovill, Henry W. Clark and Harvey Rice were constituted and appointed commissioners with similar powers respecting said stock to those given to the commissioners above named. By a further act of the

legislature of February 13, 1851 (Laws of that year, p. 502), the city was further authorized through commissioners to subscribe \$100,000 to the stock of the Cleveland, Painesville and Ashtabula Railroad Company, this act having been approved by a vote of the people. Powers were given to the commissioners appointed under this act similar to those in the acts last above named. Melancton Barnett, Hiram B. Wilson, Arthur Hughes, Charles Hickox and Oliver H. Perry were by said act appointed commissioners there under.

These several boards of commissioners on the 5th day of June, 1854, and for some years before and after said date, held for and as agents of said city under the authority conferred by said several acts a large amount of said railroad stock so issued by said respective companies and said railroad stock and the proceeds therefrom were of large value.

Prior and up to said date of June 5, 1854, the Cuyahoga river was the western boundary of the city of Cleveland, and Wilson Avenue was the eastern boundary. The territory lying immediately west of the Cuyahoga river was known as and embraced the 'City of Ohio.' The two municipalities had long before then been incorporated under the laws of the state, and the territory of the city of Ohio was contiguous to the city of Cleveland, and a short time prior to the said 5th of June, A. D. 1854, the proper action was taken by ordinance passed for that purpose by the respective cities submitting to the qualified voters of the said cities the question of the annexation of the city of Ohio to the city of Cleveland in pursuance of the provisions of section 15 of the act entitled an 'act to provide for the organization of cities and incorporated villages,' passed May 3, 1852, and the action taken by said cities in the premises conformed strictly to the statute made and provided for such purpose, and at said election a majority of the qualified voters of the said municipalities voted in favor of such annexation. And thereupon the council of each of said cities appointed commissioners to arrange the terms and conditions of such annexation as required by said section of the act last named. And said commissioners agreed, among other things, upon the annexed terms of annexation, which were submitted for approval to the council of the respective corporations, and was by the council of each of said corporations duly approved by an ordinance passed for such purpose by each municipality. Such further steps were taken as were required by said section to complete said annexation of said city of Ohio to said city of Cleveland. A true copy of the agreement containing the terms and conditions of annexation is hereto attached and marked "Exhibit A," and made a part of this answer.

By section or article 6 of said agreement or terms of annexation it was provided:

"All railroad stocks now held by the city of Cleveland, and all rights growing out of the ownership thereof and of such as have heretofore been owned by said city of Cleveland, shall be and remain the exclusive property of that portion of the territory of such united city which now constitutes the city of Cleveland, the avails of which shall be applied to the extinguishment of the liabilities of said city

of Cleveland, heretofore incurred by subscriptions to railroad stocks, and the issue of bonds or other liabilities of said city of Cleveland in payment of said subscriptions. Should a surplus remain after the application of so much of the last named assets to the extinguishment of the said last named liabilities as shall be necessary for that purpose, such surplus shall be appropriated to the special benefit of said territory now composing the city of Cleveland, either by the purchase of public parks therein, or in such other manner as the majority of the trustees representing such territory shall direct. Should it ever be necessary to resort to other means than said assets to take care of said liabilities the amount necessary for such purpose shall be raised by a tax upon the property embraced in such territory exclusively."

This defendant further says that the great bulk of all the fund that came into the custody or hands of the sinking fund commission created by the act of March 28, 1862, consisted in the shares of stock aforesaid and the proceeds therefrom of said railroad companies, which were by the respective commissions above named transferred and delivered to the commission composed of this defendant and his associates, created by the act of March 28, 1862, in pursuance of its terms and provisions authorizing and requiring them so to do.

This defendant further says that a considerable portion of the funds now in the custody and control of said sinking funds commission is the product and proceeds of investments made of the funds arising from the sale of said railroad stocks.

He further says that by the terms and conditions of said annexation the said sinking fund commission hold said fund, as he advised by counsel, in trust for the purposes named and described by said article 6 of said agreement of annexation between said two cities, and that the same is not a fund in which the entire city of Cleveland has an interest, but that the duties of the commissioners in reference thereto are such as are defined by and grow out of the provisions of said section or article 6 of said terms of annexation.

This defendant further says that by the first section of the act of 1862 and of the sections amendatory thereof, it was and is provided, that the funds arising from said railroad stock or any bonds taken therefor, or any proceeds thereof then in the hands of said city commissioners, and the interest and dividends thereafter to accrue on the same, after paying the expenses of the trust created by said act, should be set apart exclusively for the payment of the principal of the water works bonds theretofore issued by said city in conformity with the provisions of article 6 of the terms of annexation between the city of Cleveland and the said city of Ohio, agreed upon by the commissioners of said cities on the 5th day of June, A. D. 1854, and that the same should be used for no other purpose whatsoever.

It was further agreed that said stocks, shares and bonds and the accumulated interest and dividends on the same so forming said fund, should be placed in the custody and under the control of five commissioners thereafter to be named and called the sinking fund commissioners, whose duty it should be to take charge, custody and control of the same and manage the same according to the provisions of

said act. Henry B. Payne, Franklin T. Backus, William Case, Moses Kelley and this defendant and their successors were by said act constituted commissioners under its provisions.

This defendant further says that the city of Cleveland in its territorial extent at the present time extends easterly far beyond the limits of Wilson Avenue, and westerly far beyond the limits of the city of Ohio at the time of its annexation, and embraces territory nearly, if not quite, double in extent of the territory embraced by it at the time of such annexation, which extended territory is inhabited by a large number of people not entitled to participate in said fund, and members of the city council representing parts of wards of said city have no voice whatever in the disposition to be made of said fund.

This defendant further says that the legislature of Ohio, by valid constitutional enactments, has repeatedly recognized said sinking fund commission as a lawfully constituted body, and said sinking fund as properly in its hands; and has devolved upon said commissioners to an action on their respective bonds given for the faithful performance of their duties as such commissioners.

By an act of June 19, 1882, to amend an act of March 28, 1862, it was provided:

'That in cities of the second grade of the first class, funds in the hands of the commissioners of the sinking fund of 1862, so called, shall, when set apart by ordinance for any particular purpose, be deemed as money in the treasury for such purpose within the meaning of the section.'

By the same act it was provided:

'That in cities of the second grade of the first class such loan as aforesaid, may be made by the sinking fund commissioners of such city, out of the sinking fund of 1862, so-called, whether the special assessment is payable in annual installments or otherwise, and such notes or certificates of indebtedness may be payable to said commissioners; and so much of the proceeds of such special assessments as may be required, shall, when received by the city, be paid over to said commissioners in liquidation of said notes or other obligations.'

This defendant further says that the expression 'such loan' as used in the above provision, related to a loan to be made by the council in anticipation of annual installments levied to pay for street improvements.

This defendant further says that the legislature, by an act passed April 13, 1883, declared the funds in the hands of said sinking fund commissioners created by the act of 1862, so called, should, when set apart by ordinance for any particular purpose, be deemed as money in the treasury for such purpose, within the meaning of section 2702 of the Revised Statutes. And said legislature enacted a similar provision April 15, 1889, in relation to said fund. And by section 71 of the act of March 16, 1891, entitled 'An act to provide for the more efficient government for cities of the second grade of the first class,' being the statute creating the so called federal plan for the government for cities of said grade of the first class, it was provided, 'That

the sinking fund commissioners * * * shall continue as now established by law.' The commissioners referred to were the defendants.

These defendants further say that under and by virtue of said act of June 10, 1882, above referred to, authorizing said sinking fund commission so to do, it loaned from time to time to said city a sum exceeding \$100,000 for said fund. This defendant further says that under the management and fortunate investments from time to time of the said original fund by said sinking fund commission, the sum has been increased and augmented from less than four hundred thousand dollars to over three million dollars. He further says that at the time said act of March 22, 1862, was passed, the said fund received by said sinking fund commission amounted to \$332,059.07, and no more, and the water works debt of the city of Cleveland then existing and to the payment of which said fund was made applicable, amounted to \$550,000, drawing interest at 6 per cent per annum. This defendant further says that by the foregoing provisions the said sinking fund commission was and is not only treated as a lawfully constituted and existing body by statutes general in character, which in terms obviated the objection that said act is local and not general, but they are expressly authorized and required to loan said fund derived under the act of 1862, and are charged with the duty of disbursement with reference thereto in the manner provided by said act.

Wherefore this defendant says that the said plaintiff is not only estopped from maintaining said action on account of the alleged invalidity of the act of 1862, but said action is barred by the statute of limitations contained in section 6789 of the statutes.

This defendant further says that said sinking fund commission has now under its charge and control, investments belonging to said fund amounting to upwards of \$1,500,000, most of which is invested in bonds of said city, and there is no person or body of persons or corporation that has by statute any right to take the charge or control of the same if such fund should be withdrawn from the custody and control of said commission.

Wherefore, this defendant, having here fully shown by what warrant he is exercising the powers referred to in the petition of the plaintiff, and that their exercise is lawful, prays that the petition of the plaintiff may be dismissed at the cost of the relator."

On March 22, 1898, the answer of Mr. Andrew Squire was filed. He set up one defense as follows:

"For defense number 1 to the petition of the plaintiff this defendant further says that he here adopts as his further answer to the petition of the plaintiff all the facts and allegations set forth in defenses numbers three, four and five in the answer of his co-defendant, William Bingham, filed in said cause, and here alleges said facts therein stated to be true, and prays the court to give the same effect to said facts in behalf of this defendant as if here fully stated and set forth."

On May 22 the answers of Mr. S. T. Everett, William Edwards and James Barnett were filed. In the first defense they accepted and made their own defenses three and four of Mr. William Bingham,

and then set up two additional defenses as follows: (2) "For their further defense these defendants aver that they were severally duly appointed to fill vacancies in said sinking fund commission occurring by death of its members, and said appointment was made in the manner provided by the 5th section of said act of March 28, 1862. And they say they were severally appointed and qualified by execution of the required bond, more than six years before the commencement of said action, and upon such appointment they severally entered upon the duties enjoined by said act and the acts amendatory thereof upon the said sinking fund commission, and thence hitherto have been and now are in the actual performance of the duties enjoined upon said sinking fund commission by said acts.

They therefore aver that if they severally are officers as alleged in the petition in this action, said action was not brought within six years after the alleged cause of ouster or the right to hold said office arose, hence they allege that said action is barred by section 6789 of the Revised Statutes. (3) For their further defense these defendants say that the legislature of Ohio, by valid and constitutional enactments, has repeatedly recognized said sinking fund commission as a lawfully constituted body, and said sinking fund was properly in its hands; and has devolved upon said commissioners duties and requirements relating to the disbursement of said fund, to disregard which would subject them to an action on their respective bonds given for the faithful performance of their respective duties as such commissioners." The plaintiff demurred to these answers and on July 1 the case was heard in Circuit Court. The Court overruled the demurrer, holding that the answers were a good defense to the relator's cause of action; and judgment for costs were rendered against the relator. Exception was taken by the relator to the findings and judgment, and on October 27, this same year (1898), the plaintiff filed a petition in error with the Supreme Court.

In this petition the plaintiff set up four pleas: (1) That the Court erred in overruling the demurrer of the plaintiff to the answer of Mr. William Bingham to the amended petition. (2) That the Court erred in overruling the demurrer of the plaintiff to the answer of S. T. Everett, William Edwards and James Barnett. (3) That the Court erred in overruling the demurrer to the answer of Andrew Squire. (4) That the judgment was given to the defendants when it should have been given to the plaintiff. (5) That the judgment was contrary to law. "Whereof the plaintiff in error prays that said judgment may be reversed and that it may be restored to all things it has lost by reason thereof."

In 1879 the General and Viaduct Sinking Funds passed under the care and management of the Commissioners of the Sinking Fund of 1862.⁸⁸ The fidelity and sagacity with which the Commissioners administered these funds gave them in 1895 an additional responsibility. On April 13, President Payne laid before the Board an ordinance to create a sinking fund for the payment of bonds which should be

⁸⁸ Chapter V., p. 24.

used for the purpose of erecting and furnishing a City Hall. This ordinance was passed by the City Council April 2, and was approved by the Mayor two days later. The Commissioners voted to accept the trust; and authorized the President of the Board to invest the fund in City of Cleveland notes issued for street improvement purposes at par.⁸⁹ The first annual report of the Commissioners of this fund showed that on January 1, 1896, that the following items constituted the City Hall Sinking Fund:

Cleveland City 5 per cent notes.....	\$113,960.00
Cleveland City 5 per cent bonds.....	14,000.00
Cash on deposit in bank.....	642.54
Total	\$128,602.54

In this decade three vacancies were created in the Commission by death. In 1890, J. H. Wade died and on September 22, General James Barnett⁹⁰ was appointed his successor. Mr. Wade was appointed January 2, 1871, to succeed Franklin T. Backus, one of the

⁸⁹ This fund was provided for by Ordinance Number 5876. On April 15, the President received \$100,000.00 from the City Treasurer; and on August 15, \$25,807.83. On October 1, the Commission received \$350.00 semi-annual interest on \$14,000 Cleveland City 5 per cent bonds; and on November 1, \$2,707.21 interest on \$99,960 Cleveland City 5 per cent notes. The growth of this fund and its use will be considered with that of General and Viaduct Sinking Funds in the final chapter of this monograph.

⁹⁰ General James Barnett, merchant and soldier, was born January 21, 1821, at Cherry Valley, Otsego County, New York. He was the son of Melancthon Barnett, merchant and afterwards banker who died July 1, 1881. Melancthon Barnett came to Cleveland in 1826, and here James Barnett attended the public schools from which he received his entire academic education. While still a boy he entered the hardware store of Potter & Clark, where he remained for three years. Then he took employment in the house of George Worthington and in due course of time became a member of the firm of George Worthington & Company, an association which continued to his death. Quite early Mr. Barnett became interested in military matters and became a member of an artillery company that was organized in 1840. Eighteen years later this company developed into the first regiment of Ohio volunteer light artillery and was known as the "Cleveland Light Artillery." Mr. Barnett receiving the commission as Colonel in 1859. When the Civil War began Mr. Barnett entered with the rank of Colonel. He served until October 20, 1864, when he was mustered out and made a brevet brigadier general. On his return home he resumed business in the firm of which he had continued a member throughout the war. In 1870 he was appointed by the Governor as one of the trustees of Soldiers' and Sailors' Orphans Home at Xenia. Later he was appointed by Governor Allen as one of the directors of the Cleveland Asylum for the Insane and served for seven years. It should be noted too that when in 1865 the police of the City of Cleveland were re-organized under the Metropolitan Police System, he was appointed by Governor R. B. Hayes as one of the Commissioners. He became a director of the First National Bank of Cleveland in January, 1872; and four years later (1876) he was elected its president. He became a member of the City Council in 1873 and served two years. His business career was chiefly identified in the iron manufacturing interests, banking and wholesale hardware trade. While a busy man, he always had time to take an active interest in public affairs and was ever interested in all that concerned his city, state and nation. See Historical and Biographical Cyclopaedia of the State of Ohio. (Cincinnati, 1884) 5 Vols. Vol. II, page 369.

original Commissioners. At a meeting of the Commissioners September 18, 1896, Mr. William Bingham announced the death of Honorable H. B. Payne, "former President of the Sinking Fund Commission, and spoke concerning the long connection with the Sinking Fund and efficient services rendered by him as President of that body."⁹¹ General James Barnett was made temporary chairman of the meeting. A resolution was offered by Mr. Everett and seconded by Mr. Edwards that Mr. William Bingham be elected President to succeed the late Senator Payne. This was unanimously adopted. General Barnett and Mr. Edwards offered the following resolution:

"Tributes have been paid to the memory of our late President, Henry B. Payne, by the Bar and various commercial and other organizations with which he was in life connected. Brilliant as a lawyer, successful in business enterprises of value to the community far beyond any personal advantage, a commanding figure in national politics, his services to the nation as a war Democrat and in other great emergencies, his services in high official station, his usefulness in this community as a citizen, have all been recorded in appreciation and gratitude.

We note the single feature of his busy and eventful life in which he was associated as one of this Commission—this work for the development and better government of the community in which he lived.

When this Commission was formed in 1862, Mr. Payne was held in such high regard that he was naturally selected by the Legislature as one of its members. Though not in robust health and already burdened with many and important duties, he accepted the trust and became the President of the Commission. Largely by his wise judgment and marked business ability, the policy of the Commission was determined; and ever since, until his death, he gave ungrudgingly of his time and counsel to the work of the Commission and beyond this, was earnest and effective in whatever promised better methods in local government.

In our close association with him we not only learned to respect his ability and to appreciate the interest he displayed in the welfare of our City, but to love him for his courteous, generous and helpful fellowship; and we here reverently and gratefully add our tribute of affection and respect to one who for so many years in such ample measure fulfilled all the obligations incident to his office in the Commission as well as that of good citizenship and, Be it Resolved, That this memorial be spread upon the records of the Commission, and that a copy be furnished to the family of Mr. Payne by the Secretary."⁹²

At this same meeting on motion of Mr. Everett and seconded by Mr. Edwards, Mr. Andrew Squire was elected a member of the

⁹¹ Journal of Proceedings of Sinking Fund Commissioners.

⁹² Journal of Proceedings of the Sinking Fund Commissioners. Meeting September 19, 1896.

Commission to fill the vacancy caused by the death of Mr. Payne.⁹³ On September 21, 1898, the third vacancy occurred in the death of Mr. William Edwards, who had served on the Commission since June of 1890. Mr. Andrew Squire at a meeting of the Commission October 1, offered the following resolution, which was seconded by General Barnett and unanimously adopted: "We desire to express upon the records of this Commission our appreciation of the services which he rendered in connection with the duties devolving upon him as a member of our body. Especially will we always remember the spirit of good fellowship which prevailed at all the meetings which he attended and to which, in so large a measure, he contributed.

His desire in connection with his duties, was invariably to benefit the City and the trust which devolved upon him. He was appointed to this commission a little more than eight years ago, because he then had the entire respect and confidence of this community, which respect and confidence in his faithfulness and in his integrity increased as the years have passed. We had hoped for his companionship for many years to come, but as death has removed him, we can only pay our respect to his memory as a lovable, upright, useful citizen.

We request our Secretary to prepare, and our Agent to deliver, to Mrs. Edwards, for herself and family, a copy of this tribute." On motion of General Barnett, seconded by Mr. Andrew Squire, Judge Samuel E. Williamson was appointed successor to Mr. Edwards.⁹⁴

⁹³ Mr. Andrew Squire is a native of Mantua, Portage County, Ohio. He was born October 21, 1850, and is the son of Doctor Jackson and Martha (Wilmont) Squire. He attended District School at Mantua until eleven years old and then went to the Western Reserve Eclectic Institute at Hiram. He graduated from Hiram College in 1872 and in October of that year entered the law office of Cadwell & Marvin, Cleveland. He was admitted to the Bar December 3, 1873, after passing the required examination before the Supreme Court at Columbus. Upon Mr. Cadwell's election to the Common Pleas bench, he became the partner of Mr. Marvin. In 1878 this firm became Marvin, Hart and Squire. Eventually Mr. Squire (1882) became the partner of Mr. Estep. In the next year this firm was strengthened by the addition of Judge Dickey, under the firm name of Estep, Dickey and Squire. On January 1, 1890, Mr. Squire left this firm to become the senior member of a new firm, Squire, Sanders and Dempsey. Mr. Squire is a distinguished member of the Ohio Bar and has made a specialty of Corporation Law. He is identified with the business and educational interests of Cleveland. He is a member of the Board of Trustees of Western Reserve University and of Case Library. (History of Cleveland, by S. P. Orth, Vol. III, p. 130; also Biographical Volume of Kennedy's History of Cleveland, p. 209.)

⁹⁴ Samuel E. Williamson was born in Cleveland, April 19, 1844. His parents were Samuel Williamson and Mary E. Tisdale. He was favored with excellent educational opportunities. After attending the public schools until he was sixteen he entered Western Reserve College and graduated in 1864 at the age of twenty. Then for two years he studied law diligently in his father's office. In 1866 he went to Cambridge, Massachusetts, and spent one year in the Harvard Law School. After passing the Bar examination, he was admitted to practice in 1867. He formed a law partnership with his father; and some years later became associated in a partnership with T. K. Bolton and still later with J. E. Ingersoll. He was connected with Mr. Ingersoll until 1880, when he was elected Judge of the Court of Common Pleas. He remained in this office two years and then resigned to accept the position of General Solicitor of the New York, Chicago and St. Louis

VII.

THE FUND AND ITS USE

1900-1913

On January 1, 1900, the total assets of the Fund were \$1,742,978.75. During the next six years the growth was rapid. In no year was the net gain less than \$70,351.06 and it rose as high as \$91,463.86. The following tables give the net gain by years and the total assets January 1 of the year following:

Net Gain	
1900	\$ 79,539.30
1901	76,351.06
1902	84,525.12
1903	88,004.59
1904	91,463.86
1905	77,063.27

Total Assets	
January 1, 1901.....	\$1,822,518.05
January 1, 1902.....	1,898,869.11
January 1, 1903.....	1,983,394.23
January 1, 1904.....	2,071,998.82
January 1, 1905.....	2,163,462.68
January 1, 1906.....	2,240,525.95

On Saturday, February 21, 1903, Honorable Samuel E. Williamson died. Judge Williamson had been a member of the Commission since October 1, 1898. At a meeting of the Commission, March 12, Mr. Charles F. Brush was elected his successor.⁹⁵ At this same meeting Mr. Andrew Squire submitted the following testimonial relative to Judge Williamson, which was unanimously adopted:

"Judge Williamson was a man of rare ability and scholarly attainments; a high minded, public-spirited citizen, whose services to the community at large in the different positions of trust in which he

Railroad. Judge Williamson was a lawyer of high standing. He was a patron of Education and was a member of the Board of Trustees of Western Reserve University and Case Library. Bench and Bar of Ohio, Vol. II, pp. 218-219.

⁹⁵ Charles F. Brush, scientist, was born at Euclid, Ohio, March 17, 1849. He was the son of Colonel Isaac Elbert and Delia W. (Phillips) Brush. He graduated at the University of Michigan in 1869 and received the degree of Doctor of Philosophy from Western Reserve University in 1880. From 1870 to 1873 he was a chemical expert at Cleveland. He was a pioneer investigator of electric lighting and invented the Brush electric arc light in 1878; also the storage battery and other devices essential to modern electrical engineering. He was the founder of the Brush Electric Company. He is credited with "The Practical Development of Electric Arc Lighting (Rumford Medal)." He has been President of the Cleveland Arcade Company since 1887, and is a trustee of both Western Reserve University and University School. Who's Who in America, 1912-1913, p. 271.

served, where a knowledge of men and affairs and sound judgment were required, and particularly of this Commission, cannot be too highly estimated.

It is the desire of this body to set forth on its records its appreciation of his valued services, to testify to the esteem in which he was held, and to express the deep sense of personal loss each member feels in his death, and moved that the same be adopted and spread upon the minutes as the testimonial of this Commission."

In the next year another vacancy occurred in the Commission when, on April 17th, Honorable William Bingham, the last of the five commissioners named in the Act of March 28, 1862, died.⁹⁶ At a meeting of the Commission, May 16 (1904), Mr. Charles W. Bingham was appointed successor to Mr. William Bingham.⁹⁷ At the same meeting on motion of Mr. Everett, seconded by Mr. Brush, the following testimonial was unanimously adopted: "In the passing away of William Bingham this organization loses the last of the original members of the Sinking Fund Commission of the City of Cleveland. This Commission was organized in 1862, and the members composing the first Commission were H. B. Payne, Moses Kelley, F. T. Backus, William Bingham and Charles Hickox.

"One by one they have departed, and successors have been chosen until for several years past, we who have been selected to fill the vacant places have with one accord looked to Mr. Bingham as the embodiment of all of the good that has been accomplished by the Sinking Fund Commission for the City of Cleveland. He has been so much to the Commission.

There was never a day when any of us met him, that the welfare of this Commission did not appear to be in his mind. No man regarded trust more truly than he in caring for the funds placed in

⁹⁶ A biographical sketch of Mr. Bingham up to the time he became a member of the Commission in 1862 is given on pages 13-14, note 33. In 1873 he was elected to the State Senate; and in 1876 declined the nomination as Presidential elector on the Republican ticket. In this same year he was appointed a member of the Board of Indian Commission by President Grant; and served until July 21, 1877, when he resigned. He was director of several Cleveland banks and vice president of the Cincinnati, Wabash and Michigan Railroad. He was largely interested in the Cleveland Rolling Mills. He was a man of fine business ability who was ever interested in all that pertained to the welfare of Cleveland. He was the first President of the Union Club; a trustee of Case Library and for a time its President; and for many years was a trustee of the First Presbyterian Church. He was, too, a citizen member of the Loyal Legion.

⁹⁷ Mr. Charles W. Bingham was born in Cleveland, May 22, 1846. He is the son of William and Elizabeth (Beardsley) Bingham. He studied at Yale and was one of the "Wooden Spoon Men." He graduated in 1868 and then continued his studies at a German University. He is President of the Perry-Payne Company, The William Bingham Company and The Standard Tool Company; and is a director of a number of Cleveland banks. He is interested not only in the business life of Cleveland, but in the intellectual as well. He is a member of the Board of Trustees of Case School of Applied Science, Western Reserve University and of Case Library, and is President of the last named Board.

charge of himself and associates, to be used for the benefit of the City of Cleveland.

It is perhaps not fitting to elaborate upon the great work which the Sinking Fund Commission in the past has accomplished for the City, but it is at least proper to say that it has been of great financial assistance to this community. We can imagine no higher ideal in the carrying out of a trust than Mr. Bingham's life and work in performing his duties as a member of this Commission. Some of his associates in connection with his work in the Sinking Fund Commission have known him ever since he came to Cleveland; and others for a less time, but all of us loved, honored and respected him. In every walk of life Mr. Bingham was a grand man, a good citizen; one who lived almost four score years and ten, maintaining his clear judgment, his fine character and his honorable position until the very close of his life.

We desire to express to his family our appreciation of their loss and the loss of the City of Cleveland, in the death of our associate, William Bingham."

At this meeting of May 16, on motion of Mr. Everett, seconded by Mr. Brush, General James Barnett was elected President of the Commission as successor to Mr. Bingham; and at the meeting of November 1, this same year (1904) President Barnett was authorized by resolution, as his successors had been, to endorse for collection all checks or drafts made to the order of the Commission.

In Chapter V⁹⁸ it was shown how the Viaduct and General Sinking Funds passed under the control of the Commissioners in 1879. The litigation begun in 1897 has been set forth in Chapter VI.⁹⁹ On October 22, 1902, the General Assembly passed an act creating a Board of Sinking Fund Trustees, and the following persons were appointed: John F. Whitelaw, Samuel E. Dodge, Demaline Leuty, and Frederick C. Howe. As a result of the organization of this Board of Sinking Fund Trustees, the Commissioners of the Fund of 1862 at a meeting held August 25, 1903, passed the following resolution: "Whereas by Act of the General Assembly of the State of Ohio passed October 22, 1902, a Board of Sinking Fund Trustees was provided for, and thereafter such Trustees were duly appointed and qualified; and Whereas the same Trustees have heretofore demanded from the present Sinking Commissioners all the assets and property in their possession; and Whereas it is the belief of the Sinking Fund Commissioners, and they are so advised by counsel that the said Board of Sinking Fund Trustees is not entitled to the property and assets in the possession of these Sinking Fund Commissioners under and by virtue of the Act of 1862, but are entitled to the assets comprising the "Viaduct Sinking" and the "City Hall Sinking Fund," and Whereas litigation is pending for the purpose of determining the obligations and duties of the Sinking Fund Commissioners with reference to the property and assets in their possession under the Act of

⁹⁸ Page 24.

⁹⁹ Pages 38-48.

1862, and until the determination of such litigation these Sinking Fund Commissioners are unwilling to, and will not transfer said property to the Board of Sinking Fund Trustees; and Whereas the City Council of the City of Cleveland has passed the necessary legislation (as appears in this record) directing and authorizing the transfer of the property and assets comprising the Viaduct Sinking Fund and the City Hall Sinking Fund by the Sinking Fund Commissioners to the Board of the Sinking Trustees:

"Now, therefore, Be it Resolved, That the President of the Sinking Fund Commissioners be and is hereby authorized and empowered to transfer and deliver to the Board of Sinking Fund Commissioners all of the property and assets in possession and control of this commission, comprising the Viaduct Sinking Fund and the City Hall Sinking Fund; and that he, the said President, be and he is hereby further authorized and empowered to execute all necessary instruments of transfer required by law to legally transfer to and vest title in said Board of Sinking Fund Trustees, to the above mentioned assets and property, and to do any and all things incident thereto; all in accordance with the terms and provisions of the ordinance designated as No. 42908, passed by the City Council of the City of Cleveland on the 10th day of August, A. D. 1903." Three days later the assets of the Viaduct Sinking Fund and City Hall Sinking Fund were transferred to the Board of Trustees created by the act of October 22, 1902.

The Commissioners of the Fund of 1862 gave the same ability and fidelity to the care of these funds while they were in their charge that they did to the Fund of 1862. How well they were managed is shown by the following tables giving total assets year by year during the time the Commissioners had charge.

Total Assets of Viaduct Sinking Fund From January 1, 1880 to August 28, 1903.

January 1, 1880.....	\$ 318,297.24
January 1, 1881.....	359,798.98
January 1, 1882.....	389,030.67
January 1, 1883.....	420,110.12
January 2, 1884.....	478,108.58
January 1, 1885.....	534,060.11
January 1, 1886.....	587,471.36
January 1, 1887.....	636,878.05
January 1, 1888.....	699,361.45
January 1, 1889.....	793,048.83
January 1, 1890.....	843,145.55
January 1, 1891.....	912,041.07
January 1, 1892.....	965,647.80
January 1, 1893.....	1,045,124.70
January 1, 1894.....	982,204.99 ⁹⁹
January 1, 1895.....	960,197.41 ¹⁰⁰
January 1, 1896.....	703,286.83 ¹⁰¹

⁹⁹ In this year the Commissioners paid from this fund into the City Treasury the sum of \$102,988.75.

¹⁰⁰ Paid into the City Treasury the sum of \$90,428.88.

¹⁰¹ Paid into the City Treasury the sum of \$384,278.00.

January 1, 1897.....	449,430.96 ¹⁰²
January 1, 1898.....	442,868.60 ¹⁰³
January 1, 1899.....	197,447.60 ¹⁰⁴
January 1, 1900.....	210,438.15
January 1, 1901.....	224,788.96
January 1, 1902.....	243,426.58
January 1, 1903.....	281,396.58

At the time of the last Annual Report of the Commissioners giving an accounting of this Fund they had assets amounting to \$281,396.58. During the years from January 1, 1894, to January 1, 1899, they had paid into the City Treasury \$1,177,579.63. This amount with the total assets January 1, 1903, makes a grand total of \$1,458,976.21. When the Commission took charge in 1879 they had as is shown by their first annual report, January 1, 1880, assets to the amount of \$318,297.24. Deducting this from the grand total, \$1,458,976.21, we have as net gain \$1,140,678.97. Evidently the Viaduct Sinking Fund had been managed with an eye single to the best interests of the City.

The General Sinking Fund received much the greater part of its income from taxation. The money thus received was paid out almost immediately to pay maturing bonds of the city, and there was consequently only a small surplus at the end of each year. The Commissioners performed this service for the city for fourteen years. In their fourteenth annual report the total receipts and cash balance are given as \$956.38. On October 10 (1892), under the head of cash disbursements we find that this sum was paid into the City Treasury on certificate of the City Auditor.

In 1895 the Commissioners took charge of the City Hall Sinking Fund.¹⁰⁵ Its growth during the years it was in charge of the Commissioners is shown by the following table:

January 1, 1896.....	\$128,602.54
January 1, 1897.....	191,063.81
January 1, 1898.....	217,627.60
January 1, 1899.....	349,076.50
January 1, 1900.....	404,140.76
January 1, 1901.....	527,728.60
January 1, 1902.....	425,154.24 ¹⁰⁶
January 1, 1903.....	429,658.48 ¹⁰⁷

This Fund passed out of the hands of the Commissioners in August, 1903. During the time it was under the management of the Commissioners they paid into the City Treasury the sum of \$174,200.00. This with the \$429,658.48 makes a grand total of \$603,858.48.

Beginning with January 1, 1904, the Commissioners had only the Sinking Fund of 1862 to care for. The remaining years of the Com-

¹⁰² Paid into the City Treasury the sum of \$312,884.00

¹⁰³ Paid into the City Treasury the sum of \$25,000.00

¹⁰⁴ Paid into the City Treasury the sum of \$262,000.00

¹⁰⁵ See page 48, this monograph

¹⁰⁶ Paid into the City Treasury \$160,200.00.

¹⁰⁷ Paid into the City Treasury \$14,000.00.

mission are characterized by the expenditure of the funds for the interest of the city and by a judicious management of the balance each year so as to produce the largest possible gain. That they planned for the future is evident from the following letter written June 17, 1905, to the Mayor and the City Council:

"By an act of the General Assembly of the State of Ohio, passed March 28, 1862, Henry B. Payne, Franklin T. Backus, William Case, Moses Kelley and William Bingham, and their successors, were constituted Sinking Fund Commissioners for the care of certain funds to be used eventually as provided in said act and as provided in the terms of the annexation of Ohio City with the City of Cleveland, by virtue of which it was provided, among other things, as follows:

'6. All railroad stocks now held by the City of Cleveland, and all rights growing out of the ownership thereof, and of such as have heretofore been owned by said City of Cleveland, shall be and remain the exclusive property of that portion of the territory of such united city which now constitutes the City of Cleveland, the avails of which shall be applied to the extinguishment of the liabilities of said City of Cleveland, heretofore incurred by subscriptions to railroad stocks, and the issue of bonds or other liabilities of said City of Cleveland, in payment of such subscriptions. Should a surplus remain, after the application of so much of the last-named assets to the extinguishment of the said last-named liabilities, as shall be necessary for such purpose, such surplus shall be appropriated to the special benefit of said territory now composing the City of Cleveland, either by purchase of public parks therein, or in such other manner as a majority of the Trustees representing such territory shall direct. Should it ever be necessary to resort to other means than said assets to take care of said liabilities, the amount necessary for such purposes shall be raised by a tax upon property embraced in such territory exclusively.'

The undersigned, with Mr. S. T. Everett, who recently sailed for Europe, are the successors duly appointed of the aforesaid Sinking Fund Commissioners. Mr. Everett is advised of this action now being taken on the part of the undersigned and thoroughly approves of and concurs in the same.

The Sinking Fund Commissioners have something more than two million dollars in securities in their possession and under their control, in condition to be used now for the purchase of public parks or in such other manner as a majority of the Trustees representing the territory of the City of Cleveland prior to the annexation of Ohio City shall direct.

A short time ago the Legislature of Ohio created another Sinking Fund Commission, and there is now pending a controversy in the courts as to whether that Sinking Fund Commission has any jurisdiction over the funds in the hands of the undersigned, the undersigned having no purpose in permitting such litigation except to fully and faithfully carry out the trust imposed upon them.

All of the Sinking Fund Commissioners have been very much interested in the park system of the City of Cleveland and in the group plan, so-called, whereby it is proposed to build the county court house at the foot of Seneca Street, the city hall at the foot of Bond Street, and open up in connection with the park on the lake front

west of Erie Street, a grouping of public buildings, with a mall extending through from practically the center of the group plan on either side of Wood Street to Superior Street, thus insuring in connection with the park system an enduring grouping of the public buildings of the City of Cleveland.

With that idea in view, the undersigned have had repeated consultation with members of the Trustees of Case School of Applied Science, owning at the present time for the benefit of Case School of Applied Science the property on which the present city hall now stands, the old Case homestead north of the postoffice building, and other properties in connection therewith, extending substantially through to St. Clair Street, as shown by the plat herewith presented. The Trustees of Case School of Applied Science have also sympathized with the park system and group plan for public buildings of the city, and have consented to sell their holdings as shown by the plat hereto attached.

The undersigned have also consulted the Committee of Group Plan of the Chamber of Commerce, and they heartily concur in the object sought to be obtained by the undersigned and by the Trustees of Case School of Applied Science.

We herewith submit to you correspondence which has taken place between the undersigned and the Trustees of Case School of Applied Science and also correspondence with the Committee of Group Plan of the Chamber of Commerce, together with the action of the Board of Directors of the Chamber of Commerce.

It is proposed, with the approval of yourselves—and we would like the approval of the Mayor and the unanimous approval of the City Council—if the plan submitted should meet your views, to authorize us to pay to the Trustees of Case School of Applied Science for the present city hall property, the Case Homestead property, and the other properties extending through to St. Clair Street, as shown upon the plat herewith presented, from the funds in our possession as Sinking Fund Commissioners, the sum of one million nine hundred thousand dollars (\$1,900,000.00), upon receipt of which the Trustees of Case School of Applied Science will convey, or cause to be conveyed, to the City of Cleveland the property described upon the plat, to be used by the City in connection with its park system and group plan, substantially along the lines of the group plan as now proposed.

Portions of the Case property are now occupied by tenants, the City itself being a tenant of the city hall property. There are other tenants paying rent upon certain portions of the other property to be conveyed to the City. It will be necessary for the City, whenever it is ready to do so, to negotiate for or appropriate the rights of such tenants. Meantime the City would be obtaining the income from them.

It is the desire of the Sinking Fund Commissioners that, when the present city hall ceases to be occupied for that purpose, it be torn down, and either the entire property thrown into the mall, or some suitable building—preferably a public library building as a part of the group plan—be located where the present city hall now stands;

the property in the rear, running through to St. Clair Street, to be used, so much of it as is necessary and appropriate, for the mall, with such other public buildings placed thereon as may in the future be deemed proper.

The undersigned would respectfully request, if the Mayor of the City of Cleveland approves the suggestion herein made, that the matter be approved by the City Council, and, when approved by the City Council and the Mayor, that the Director of Law be instructed to take such action as shall be necessary to settle the pending litigation so far as the \$1,900,000.00 is concerned, and to enable the City to receive, for the purposes herein stated, a proper conveyance from the Trustees of Case School of Applied Science of the property herein described.

The Sinking Fund Commissioners express their readiness, if this shall be approved and this property accepted, to expend the remainder of the funds in their possession for the acquiring of other additional real estate in connection with the group plan, as the Mayor and the City Council may hereafter approve."

Previous to this letter the Sinking Fund Commissioners had received a letter from Mr. J. N. Henderson, President of the Board of Trustees of Case School of Applied Science under date of June 9, in which he said that the Trustees were willing to accept the proposition for the purchase of the Case property referred to in the letter of the Commissioners given above under the following conditions:

"1. That conveyance of the properties be made subject to all existing leases and in the last half of the taxes of the present year.

2. That a period of sixty (60) days from the date hereof be treated as a reasonable time within which such action of the Mayor and City Council shall be obtained, and if not obtained within that time, this acceptance may be thereafter, on written notice to you, withdrawn.

3. That payment of the purchase price of the property be made in securities held by you at their fair market price to such extent as we may be able to agree upon the amount which shall represent such market price, and the remainder, if any, in money."

4. That the transaction when concluded shall bear date as of July 1, 1905, all rents of property and income from securities accruing up to that time to be retained by the present owners, and such as accrue after that time to pass with the properties, as well as interest at the rate of four per centum (4%) per annum upon any part of the purchase price for which securities are not taken."

As a result of these negotiations the property was purchased for one million nine hundred thousand dollars. This was paid for with securities appraised at \$1,754,898.50 and \$208,602.81 in cash.¹⁰⁸ A deed of the property was made and given to the City.

At a meeting of the Commission, May 9, 1906, at which the members of the City Council were present there was discussion as to how the balance of the funds that remained after paying for the Case

¹⁰⁸ A statement in the matter of the purchase of certain land by the

Estate property should be expended. No definite conclusion was reached. It was suggested, however, that the money be used for the purchase of small parks.¹⁰⁹ On December 26, 1906, Mr. D. J. Zinner, a member of the City Council, introduced a resolution which passed the Council and was approved by the Mayor directing the Commissioners to pay Moses Watterson sixty thousand dollars for the cancellation and surrender of the lease held by him on a certain parcel of the land which had been purchased by the Commission for the City from the Trustees of Case School of Applied Science. The resolution also provided for the transfer "by said Watterson to the City of Cleveland of the building situated upon said parcel of real estate free from all lien, encumbrance or obligation." This resolution was signed by the councilmen of the original seven wards.¹¹⁰ On January 21 (1907), the Commissioners received a letter from the City Solicitor, Mr. Newton D. Baker, to effect that Mr. Watterson had executed "all the necessary papers for the cancellation and surrender of the lease and sale of the building to the City"; and that he had approved the bond of this transaction, and would be satisfied if the Commission would pay over the money in question according to the terms of the resolution adopted by the Council and approved by the Mayor. On the next day, January 22, the money was paid Mr. Watterson.

The next meeting of the Board was June 6, 1907. Then Mr. C. W. Bingham presented the following resolution, which was unanimously adopted: "WHEREAS, a communication from Councilman A. J. Hirstius has been presented to the Sinking Fund Commissioners accompanied by a duly certified copy of action taken by the School Board of the City of Cleveland, Ohio, together with a request and direction signed by all of the Councilmen representing the original seven wards of the City of Cleveland, and the Councilmen-at-Large, also a certified copy of the resolution passed by the Council of the City of Cleveland on May 13, 1907, approved by the Mayor, May 20, 1907, and known as Resolution No. 7906, said resolution and the instrument signed by the Councilman requesting the Sinking Fund Commissioners to pay over moneys under its control to the sum of

Sinking Fund Commissioners of 1862, in behalf of the City of Cleveland of the Case School of Applied Science:

Purchase price of the property.....	\$1,900,000.00	
Value of invested assets turned over to Case School		\$1,754,898.50
Interest at 4% to present date on difference between these sums from July 1, 1905.....	5,320.38	
Interest received by Commissioners on invested assets after July 1, 1905.....	57,594.57	
Interest at 3 2-10% to July 1, 1906.....	586.36	
Cash to balance in full payment.....		208,602.81
	\$1,963,501.31	\$1,963,501.31

¹⁰⁹ Journal of the Proceedings of the Board of Sinking Fund Commissioners. Minutes of the meeting, May 9, 1906.

¹¹⁰ See terms of annexation of Ohio City to City of Cleveland. Appendix pp. 66-68

Twenty-nine Thousand Two Hundred Fifty and no/100 Dollars (\$29,250.00) to the various parties named in said resolution No. 7906, be it,

RESOLVED, That the President of this Commission be and he is hereby authorized to pay by check to the parties named in said Resolution No. 7906, the respective amounts therein set forth, all aggregating the sum of \$29,250.00, upon the parties making to the City of Cleveland proper conveyances, which shall express in each of them that the lands so conveyed to the City of Cleveland are to be used for park purposes, and all of said conveyances and the titles thereto to be approved by Newton D. Baker, City Solicitor, and payment to be made upon proper certificate from him that the title is good, and that the conveyances have been made to the City of Cleveland for park purposes, and that everything is in proper and legal shape to comply with the resolution of the City Council passed May 13, 1907, and with this resolution."

As early as April 15, Mr. Hirstius had addressed a letter to the Superintendent of the Cleveland Schools,¹¹¹ specifying the school grounds in his ward that he desired to enlarge. He desired to add one hundred feet on Central to the Marion School, making a total area of forty thousand square feet; twenty-seven feet on Waring Street (East 31st Street) and sixty-six feet on Hulbert Street to the Waring School, giving an additional area of fifteen thousand square feet; and fifty feet on Cedar Avenue with a depth of two hundred feet to the Sterling School, making a total of ten thousand square feet.¹¹²

At a meeting of the Board the 13th of the next month¹¹³ a communication was presented from the City Solicitor asking that the Commissioners devote thirty thousand dollars to assist in the purchase of "properties known as the Rini property, the Bassishic property, the Heller property and the Newman property," to establish a park within

¹¹¹ Proceedings of the Board of Education, April 15, 1907. Mr. Hirstius' letter to Superintendent Elson was under the same date. The resolution passed by the Council and signed by the members of the original seven wards was under date of April 18.

¹¹² In July from the 8th to the 12th the following persons were paid by the Commission the sums set opposite their name for the purchase of land for the City to add to the playgrounds of the three schools above named:

Yetta Lavine and B. Lavine for 50 feet of land on Marion Street joining the Marion School.....	\$ 8,500.00
Mrs. Margaret A. Phister 50 feet on Marion Street.....	3,650.00
Richard H. Curtain and others for property known as lot No. 36 in Hulbert sub-division, 33 feet on the west side of Hulbert Street	2,750.00
Flora Burke for property known as 187 Waring Street, 27 feet on Waring Street	2,250.00
Mary Brosman for property known as No. 5 Hulbert Street, 33 feet on Hulbert.....	2,100.00
T. O'Reilly for property known as sub-lots 19 and 20 of sub-division of P. Scovil, 100 feet on Central Avenue.....	10,000.00
Total	\$29,250.00

¹¹³ July 13, 1907.

the original seven wards of the city. This communication was accompanied by a certified copy of a resolution passed by the Council and signed by the Councilmen of the original seven wards.¹¹⁴ In compliance with this request the Commissioners passed a resolution authorizing Mr. Charles F. Brush, the chairman of that meeting, and Mr. H. C. Hawkins, the agent of the Commission in the absence of General Barnett, to pay the thirty thousand dollars for these premises.¹¹⁵ On August 2 this money was paid into the City Treasury. To further the work of adding to the parks of the city for play-ground purposes the Commission at its meeting passed four resolutions appropriating a total of \$72,110.

The first of these resolutions provided for the payment of \$5,600.00, according to the terms of a resolution introduced by D. J. Zinner and adopted by the City Council, March 9 (1908).¹¹⁶ The second resolution authorized the payment of \$19,940.00 to acquire property near the junction of Superior Avenue and what was formerly called Kirtland Street.¹¹⁷ The third resolution authorized the payment of \$18,420.00 for the purchase of property on Sterling Court. This was to be paid after the introduction of a resolution in the City Council by Mr. E. B. Haserodt in June (1908), authorizing same.¹¹⁸ The fourth and last resolution was one authorizing the payment of \$28,150.00 for the purchase of property on Putnam Street. This resolution was authorized by one introduced in the City Council by Maurice Bernstein and passed by that body on March 13, 1908, and approved by the Mayor April 8.¹¹⁹ At this same meeting a resolution presented by P. J. Henry in the City Council requesting the expenditure of \$23,900.00 for park purposes was received.¹²⁰

¹¹⁴ This resolution was known as resolution No. 8857 and passed the City Council July 8, and was approved by the Mayor two days later.

¹¹⁵ The \$30,000 was expended as follows: Rini property, \$10,000; Bas-sishic property, \$12,000; Heller property, \$14,000. The Newman property to be acquired by purchase or appropriation by the City of Cleveland. The excess over \$30,000 to be paid by the City of Cleveland. The resolution specified that the Commissioners should pay the \$30,000 to the Treasurer of the City of Cleveland.

¹¹⁶ This resolution as were all which authorized the Commissioners to purchase land for park purposes was signed by the seven Councilmen of the original seven wards.

¹¹⁷ This resolution was authorized by a resolution introduced by Mr. Haserodt in the City Council March 9, and approved by the Mayor March 11.

¹¹⁸ This property was paid for June 12, 1908. Payments were made by the City Treasurer to the following persons in the amounts set opposite their names: John S. Stevens, \$6,720; Anna Clark, \$5,900; Margaret Conway, \$2,600; John and Mary Oberle, \$2,900, and J. F. McKenna for services rendered in procuring options upon the property, \$300, total, \$18,420. On the same date there was forwarded to the Treasurer check for \$5,600 as authorized by the Zinner resolution.

¹¹⁹ The \$28,150 authorized under the Bernstein resolution was paid May 1, 1908, and went to the City Treasury for the following persons in the amounts set opposite their names: Bessie Dennish, \$4,000; David Regar, \$4,050; Isador Wohl, \$7,400; Samuel Rosen, \$6,500 and Max Rubin, \$6,200.

¹²⁰ The money under the Henry resolution was paid June 9 and went to the following persons: David M. Ryan, \$5,700; John O'Laughlin, \$3,500; Katherine Mallin, \$3,700; Thomas Bolger, \$3,000; Della W. Gregory, \$3,000; and Mary Brennan, \$5,000; total \$23,900.

On August 31, this same year (1908) a resolution was introduced in the City Council by Mr. N. Gribben requesting the expenditure of \$27,115.00 of the Sinking Fund's money for the purchase of land for park purposes. A resolution was offered by Mr. Squire and seconded by Mr. Brush authorizing the President of the Commission to turn over to the City Treasurer checks drawn to the order of the various vendors of the land to be purchased by the City to the amount above stated.¹²¹ On November 23 the City Council passed a resolution introduced by Mr. Samuel Kramer authorizing the purchase of a tract of land from Mr. J. H. Wade for \$20,000. This was paid January 27, 1909.

The annual report of the Commission showed for the year a balance of \$132,893.28 and expenditures for land for park purposes, \$76,070.00. The expenses for the year were \$1,055. In 1909 the interest received monthly on bank balances amounted to \$3,103.78, making a total with the balance on hand January 1, 1909, of \$135,997.06. During the year 1909, including the \$20,000 paid J. H. Wade, January 27, they expended for land for park purposes \$47,115.00. The expenses for the year were \$721.64, leaving a balance of cash on deposit January 1, 1910, of \$88,160.42. In this year (1910) to purchase land for park and group plan purposes from Sherwood B. Potter and John Dyer Potter, the Commissioners appropriated \$25,000.

Besides the land purchased from the Potters the Commission under a resolution of June 1, appropriated \$31,850.00 for park purposes. Their expenses during the year were \$511.50. From interest they received \$1,631.50. On January 1, 1911, there was a balance on hand of \$32,430.42.

A vacancy occurred in the Commission on January 13, 1911, in the death of General James Barnett who had served since September 22, 1890. General Barnett succeeded J. H. Wade. After the death of Mr. William Bingham he was elected President of the Commission. At the next meeting of the Commission, June 4, 1912, on motion of Mr. C. W. Bingham, seconded by Mr. Andrew Squire the following testimonial was unanimously adopted:

"In the death of General James Barnett this city and State has sustained a great loss. He was a great soldier; a great philanthropist; and a great citizen."

As a soldier he served the entire time of the Civil War and took part in the battles of Shiloh, Corinth, Stone River, Murfreesboro, Chickamauga, Missionary Ridge and Nashville, winning high praise from both General Rosencranz and General Thomas. When the war had ended he retired from the army with the rank of Brigadier General and with the unostentation so characteristic of him returned to his business and his civic duties.

As a philanthropist he was a man of broad sympathies, who gave generously and wisely. His wise counsels and material help did much for

¹²¹ These vendors and the amount each received were as follows: Mrs. Kate Kennedy, \$5,500; Layura J. Ross, \$2,915; James Duffin, \$2,750; Mrs. Elizabeth Strobe, \$2,850; Mrs. Susan Wilke, \$3,600; Mrs. S. Krueger, \$3,500; The Cleveland Trust Company, \$2,500; Mrs. C. Bahls, \$1,800; Mrs. A. Wagner, \$1,700; total, \$27,115.

the upbuilding of the institutions of philanthropy in this city. For many years he was President of the Associated Charities, and also the Humane Society.

As a citizen he was ever interested in the moral, intellectual and material development of this city, and was ever willing to give of his time and his abilities to contribute to their advancement. In 1865, on appointment by Governor R. B. Hayes, he served as Police Commissioner of the Metropolitan Police; he was one of the early directors of the Soldiers and Sailors Orphans Home at Xenia; and for seven years one of the directors of the Cleveland Asylum for the Insane. He was too, a trustee of Case Library, and for a time President of its Board of Trustees; a trustee of Western Reserve Historical Society, and a member of this Commission since 1890. He was faithful in every trust; beloved by those who knew him; and universally esteemed by the citizens of Cleveland.

We of this Commission, which he served for twenty-one years and of which he was President from 1904 till his death, desire to express our appreciation of his ability, his wise counsels, and his valued services; and to testify to the personal esteem and affection in which we his colleagues held him, and to the personal loss we have sustained in the death of this good man,—our friend.

At this same meeting on motion of Mr. Andrew Squire, seconded by Mr. Charles F. Brush, Mr. C. W. Bingham was elected President of the Commission to succeed General Barnett.

During the year 1911 the Commission received \$1,166.43. This with the \$32,430.42, the balance on hand January 1, made a total of \$33,596.85. The expenses for the year were \$505.00, leaving a balance January 1, 1912, of \$33,091.85. The work of the Commission was practically complete when on June 4 of this year (1912) the Secretary, Mr. E. W. Brink, was authorized to turn over to the City Solicitor of the City of Cleveland \$32,500 in checks payable to the vendors of land purchased by the city for park purposes.¹²²

On June 30, 1913, the Commission forwarded to the City Council its report for the half year ending on that date. This showed a complete distribution of all funds. The report was approved by the City Council, November 5, and by the Mayor November 7. The work of the Commission was now finished and in accord with its resolution of June 30, it adjourned sine die.¹²⁴

The Commission had been in existence a half century. It began with assets to the amount of \$361,377.52. This, however, was only nominal as the stock of the Cleveland and Pittsburg Railroad Company were included at par. As has been stated¹²³ this stock when sold realized but \$42,537.50, making the real assets on January 1, 1863, \$332,059.07. With this amount as a basis the Commissioners by hus-

¹²² Journal of Proceedings of Sinking Fund Commissioners.

¹²³ Page 16 this monograph.

¹²⁴ At the meeting of the Commission, June 30, 1913, it was "Resolved, that upon the submission of a copy of this report to and its approval by the City Council, the Mayor of the City of Cleveland and the councilmen of the original seven wards, which approval is requested, and upon entering upon the minutes of the Secretary of the action of the City authorities evidencing such approval, this Commission then stand adjourned, sine die"—Journal of the Proceedings of Board of Sinking Fund Commissioners.

banding their resources and by wise and judicious investments caused it to grow into more than four and a half million dollars. The following table shows the total and the uses made of the Fund:

Water Bonds redeemed and cancelled.....	\$ 925,000.00
House of Correction Bonds cancelled.....	40,000.00
City's Debt assumed and paid.....	468,696.51
City's share of repaving streets.....	725,587.90
For fire department purposes.....	55,477.22
For bridge construction.....	87,742.13
Land purchased from Case School of Applied Science for park system and group plan.....	1,900,000.00
To Moses Watterson for cancellation and surrender of lease..	60,000.00
For school parks at Marion, Waring and Sterling Schools....	29,250.00
1906 Park purposes	59,250.00
1907 Park purposes	72,110.00
1908 Park purposes	76,070.00
1909 Park purposes	47,836.64
1910 Park purposes	56,850.00
1912 Park purposes	32,500.00
	<hr/>
	\$4,636,370.40

It is doubtful if anywhere else in the History of American Cities a parallel to this undertaking can be found. It is pre-eminently to the credit of Cleveland that such a work could be done; and too much cannot be said in commendation of the men who accomplished it. They were conservative business men who without remuneration gave their time and their abilities because of civic pride to accomplish this work for future generations; civic patriotism of the highest type and of the kind that should have emulation in other American cities alone explains their fidelity to their trust and gives promise of like good work from others in the future.

APPENDIX

TERMS OF ANNEXATION OF OHIO CITY TO THE CITY OF CLEVELAND

This memorandum of an agreement made this fifth day of June, A. D. 1854, by and between W. A. Otis, H. V. Wilson, and F. T. Backus, as commissioners appointed by the city council of the city of Cleveland, and W. B. Castle, N. M. Standart and C. L. Rhodes as commissioners appointed by the City of Ohio, to arrange the terms and conditions of the annexation of the said city of Ohio to the said city of Cleveland, in pursuance of the vote taken in that behalf by said cities respectively, at the annual election held therein, on the first Monday in April last, Witnesseth: that said commissioners, the former acting in behalf of said city of Cleveland, and the latter acting in behalf of said city of Ohio, have agreed upon the following terms and conditions upon which such annexation shall take place, to wit:

The territory now constituting the city of Ohio shall be annexed to and constituted as a part of the city of Cleveland, and the first, second and fourth wards of the former city, as now established, shall constitute the eighth, ninth, tenth and eleventh wards respectively, of the last named city, and the present trustees of the said wards of the city of Ohio, respectively, shall hold their office as such trustees of said eighth, ninth, tenth and eleventh wards of said city of Cleveland respectively, for the terms for which they have been severally elected as such trustees of said first, second, third and fourth wards, but the boundaries of said wards may be changed, or the number thereof may be increased or diminished, subject to the provisions contained in the next following articles.

2.—The number of wards into which the territory so annexed shall be divided, shall not, before the first Monday of April, A. D. 1858, bear a less ratio to the whole number of wards into which said united city of Cleveland shall be divided, than four to eleven; nor shall such number ever bear a less ratio to the whole number of wards in the City of Cleveland than the population of such territory shall bear to that of the whole city.

3.—All assets, both real and personal, owned by, or in any manner belonging to the city of Ohio, shall vest in, and become the property of the said city of Cleveland, to be held by the latter for the purposes contemplated in the original acquisition of the same power of disposal over them as though the same had been originally acquired for the like purposes by the said city of Cleveland.

4.—All the assets, both real and personal, other than railroad stocks, and rights growing out of the same, owned by or in any manner belonging to the city of Cleveland, as now constituted, shall be the property of said united city, to be held for the purposes contemplated

in the original acquisition, but with the same power of disposal over the same, as though they had been originally acquired for the like purposes by said united city of Cleveland.

5.—That the outstanding debts and liabilities of every kind of the said city of Ohio, including the amount to be paid for the purchase of water lot number eighteen, as authorized by said city council, and those of the said city of Cleveland, other than such as have been incurred by the latter by way of subscriptions to railroad stocks, shall be provided for and liquidated by the said united city of Cleveland.

6.—All the railroad stock now held by the city of Cleveland, and all rights growing out of the ownership thereof, and of such as have heretofore been owned by said city of Cleveland shall be and remain the exclusive property of that portion of the territory of such united city which now constitutes the city of Cleveland, the avails of which shall be applied to the extinguishment of the liabilities of said city of Cleveland, heretofore incurred by subscriptions to railroad stocks, and the issue of bonds and other liabilities of said city of Cleveland, in payment of such subscription. Should a surplus remain after the application of so much of the last named assets to the extinguishment of the said last named liabilities as shall be necessary for such purpose, such surplus shall be appropriated to the special benefit of said territory now composing the city of Cleveland, either by the purchase of public parks therein, or in such other manner as a majority of the trustees representing such territory shall direct. Should it ever be necessary to resort to other means than said assets to take care of said liabilities, the amount necessary for such purpose shall be raised by a tax upon the property embraced in such territory exclusively.

7.—The united city of Cleveland shall commence and complete as soon as practicable, but not later than the first day of June, A. D. 1856, a bridge over the Cuyahoga river, at the foot of Superior street in the city of Cleveland, or at some suitable point further north, the particular location of which shall be designated by the council of said united city, as a public highway for the accommodation of the inhabitants of the territory embraced in the said city of Ohio and the said city of Cleveland, sufficient and suitable for the crossing of said river with teams, carriages and other vehicles; and the council of such united city shall pass all such ordinances as may be necessary to ensure the completion of such bridge on or before said first day of June, A. D. 1856, and such other bridges and crossings shall be provided from time to time as the convenience of the citizens may require and the council direct.

8.—Upon the consummation of such annexation, all the general ordinances of said city of Cleveland now in force shall be extended to and enforced over the entire territory of the city of Cleveland, as it shall then be constituted, and the general ordinances of the said city of Ohio shall be repealed; provided, however, that the same shall continue in full force as far as shall be necessary for the enforcement of rights or liabilities that shall, before that time, have accrued under the same. The local ordinances of said city of Ohio shall be and

remain in full force until repealed or modified by the city council of said united city; but no such repeal shall take place of such of said ordinances as provide for local improvements to be made by the levy of special taxes; and it shall be the duty of such city council to make such further provisions as shall, from time to time, be necessary for the purpose of completing such local improvements and supplying any defect that may be found in said ordinances.

9.—Upon such consummation, all appointments heretofore made by the city council of said city of Cleveland, of existing boards of management of every kind, committees and officers, shall terminate, and said united city council shall reappoint such boards, committees and officers, and in such new appointments proper regard shall be had to the territory so annexed to said city. The terms of office of such officers as have been elected by the people of the last named city shall continue the same as though such annexation had not taken place; and such officers shall hold the same relation to said united city that they have heretofore held to the city of Cleveland; and the officers of the said city of Ohio of every kind other than trustees, shall deliver over to the corresponding officers of said united city, on demand, all moneys, records, books, vouchers, claims and property of every kind and description in their hands or under their control as such officers taking duplicate receipts therefor, one of which shall be filed by them, respectively, with the auditor of the united city.

10.—As soon as practicable after the consummation of such annexation, the city council of such united city shall pass all such ordinances as may be necessary or proper to carry into effect all the terms and conditions in this agreement of annexation mentioned and set forth.

In witness whereof, the said commissioners have hereunto set their hands, the day and year first above mentioned.

H. V. WILSON,

F. T. BACKUS,

Commissioners on behalf of the city of Cleveland.

WM. B. CASTILE,

CHAS. L. RHODES,

Commissioners on behalf of the city of Ohio.





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